



# भारत का राजपत्र The Gazette of India

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सं० 24 ]

नई दिल्ली, शनिवार, जून 17, 1995/ज्येष्ठ 27, 1917

No. 24]

NEW DELHI, SATURDAY, JUNE 17, 1995/JYAISTHA 27, 1917

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

## भाग II—खण्ड 3—उप-खण्ड (II) PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(other than the Ministry of Defence)

कार्मिक, लोक शिकायत एवं पेंशन मंत्रालय

(कार्मिक एवं प्रशिक्षण विभाग)

नई दिल्ली, 30 मई, 1995

का०प्रा० 1632.—दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उप धारा (8) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा अपर जिला एवं सत्र न्यायाधीश, तृतीय न्यायालय बारासात (प० बंगाल) में ली० कर्नल आर०एन० सैन (सेवानिवृत्त) एवं अन्य के विरुद्ध दिल्ली विशेष पुलिस स्थापना, नियमित मामला संख्या 20/72 सी०आई०यू० (पी०) में अभियोजन का संचालन करने हेतु श्री साधन राय चौधरी, अधिवक्ता, उच्च न्यायालय कलकत्ता को विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[संख्या 225/42-ए/94-ए०वी०डी०-II]

एस० सौन्दर राजन, अवर सचिव

MINISTRY OF PERSONNEL, P. G. AND PENSIONS  
(Department of Personnel and Training)

New Delhi, the 30th May, 1995

S.O. 1632.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government vide Order dated 13-2-1995 hereby appoints Shri Sadhan Roy Choudhary, Advocate, Calcutta High Court, as Special Public Prosecutor for conducting the prosecution of the Delhi Special Police Establishment Regular Case No. 20 of 72/ACU. IV State Vs. Lt. Col. R.N. Sen (Retd.) and others, in the court of Additional District and Sessions Judge, III Court Barasat, West Bengal).

[No. 225/42-A/94-AVDII]

S. SOUNDER RAJAN, Under Secy.

आदेश

नई दिल्ली, 30 मई, 1995

का०प्रा० 1633.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम संख्यांक

25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सिक्किम राज्य सरकार की सहमति से जो गृह विभाग सं० 7 (6)/गृह/84/86, तारीख 27-1-1994 द्वारा प्रदान की गई थी, नीचे उल्लिखित अपराधों, अर्थात्:—

1. भारतीय दण्ड संहिता, 1860 (1860 का अधिनियम संख्यांक 45), अष्टाचार निवारण अधिनियम, 1947 (1947 का अधिनियम संख्यांक 2) और अष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम, संख्यांक 49) की धारा 120ख, 124-क, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170-ड०, 171-घ, 182, 193, 196, 197, 198, 199, 200, 201, 204, 211, 218, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 263, 263-क, 379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 403, 406, 407, 408, 409, 411, 412, 413, 415, 417, 418, 419, 420, 465, 466, 467, 468, 471, 472, 473, 474, 475, 476, 477-क, 489-ख, 489-ग, 489-घ, 489-ङ, 500, 501, 502 और 505 के अधीन अपराधों,
2. पासपोर्ट (भारत में प्रवेश) अधिनियम, 1920 (1920 का अधिनियम संख्यांक 34) की धारा 3 की उपधारा (3) के साथ पठित पासपोर्ट (भारत में प्रवेश) नियम, 1950 के नियम 6 के अधीन दण्डनीय अपराधों,
3. पुरावशेष तथा बहुमूल्य कलाकृति अधिनियम, 1972 (1972 का अधिनियम संख्यांक 52) की धारा 25 के अधीन दंडनीय अपराधों,
4. सीमा "शुल्क अधिनियम, 1962 (1962 का अधिनियम संख्यांक 52) की धारा 312, 133, 134, 135 और धारा 136 के अधीन दंडनीय अपराधों,
5. केन्द्रीय उत्पाद-शुल्क और नमक अधिनियम, 1944 (1944 का अधिनियम संख्यांक 1) की धारा 9 और धारा 17 के अधीन दंडनीय अपराधों,
6. औद्योगिक (विकास और विनियमन) अधिनियम, 1951 (1951 का अधिनियम संख्यांक 65) की धारा 24 की उपधारा (1) के खण्ड (iii) के अधीन दंडनीय अपराधों,
7. लोक प्रतिनिधित्व अधिनियम, 1950 और 1951 के अधीन दंडनीय अपराधों,

8. यान-हुरण निवारण अधिनियम, 1982 (1982 का अधिनियम संख्यांक 65) की धारा 4 और धारा 5 के अधीन दंडनीय अपराधों,
9. विदेशी अभिदाय (विनियमन) अधिनियम, 1976 (1976 का अधिनियम संख्यांक 49) की धारा 22, धारा 23, और धारा 25 के अधीन दंडनीय अपराधों,
10. भारतीय डाकघर अधिनियम, 1898 (1898 का अधिनियम संख्यांक 6) की धारा 51, 52, 55 और धारा 56 के अधीन दंडनीय अपराधों,
11. भारतीय तार अधिनियम, 1885 (1885 का अधिनियम संख्यांक 13) की धारा 27 के अधीन दंडनीय अपराधों,
12. भारतीय श्वेतार-तार यांत्रिकी अधिनियम, 1933 (1933 का 17) के अधीन दंडनीय अपराधों,
13. बीमा अधिनियम, 1938 (1938 का अधिनियम संख्यांक 4) की धारा 104 और 105 के अधीन दंडनीय अपराधों,
14. विदेशियों विषयक अधिनियम, 1946 (1946 का अधिनियम संख्यांक 31) की धारा 14 के अधीन दंडनीय अपराधों,
15. विदेशियों का रजिस्ट्रीकरण अधिनियम, 1939 (1939 का अधिनियम संख्यांक 16) की धारा 5 के अधीन दंडनीय अपराधों,
16. तारयंत्र संबंधी तार (विधि विरुद्ध कब्जा) अधिनियम, 1950 (1950 का अधिनियम संख्यांक 74) के अधीन दंडनीय अपराधों,
17. आवश्यक वस्तु अधिनियम, 1950 (1955 का अधिनियम संख्यांक 10) की धारा 7 और धारा 8 के अधीन दंडनीय अपराधों,
18. पासपोर्ट अधिनियम, 1967 (1967 का अधिनियम संख्यांक 15) की धारा 12 के अधीन दंडनीय अपराधों,
19. विदेशी मुद्रा विनियमन अधिनियम, 1973 (1973 का अधिनियम संख्यांक 46) के अधीन दंडनीय अपराधों,

उपर उल्लिखित अपराधों में से किसी अपराध के संबंध में या उससे संबंधित प्रयत्नों, दुष्प्रेरणों तथा षड्यंत्रों के और वैसे ही तथ्यों से उद्भूत वैसे ही संव्यवहार के अनुक्रम में किए गए किन्हीं अन्य अपराधों के अन्वेषण के लिए विल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण सिक्किम राज्य पर करती है।

[सं० 228/15/95-ए०बी०डी०-II]

एस०एस० राजन, अवसर सचिव

## ORDER

New Delhi, the 30th May, 1995

S.O. 1633.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Sikkim vide Home Department No. 7(6)/Home/84/36, dated 2-7-1994, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Sikkim for investigation of the offences mentioned below :

- Sections 120-B, 124-A, 161, 162, 163, 164, 165, 166, 167, 168, 169, 171-E, 171-F, 182, 193, 196, 197, 198, 199, 200, 201, 204, 211, 218, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 263-A, 379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 403, 406, 407, 408, 409, 411, 412, 413, 414, 417, 418, 419, 420, 465, 466, 467, 468, 471, 472, 473, 474, 475, 476, 477-A, 489-A, 489-B, 489-C, 489-D, 489-E, 500, 501, 502, and 505 of the Indian Penal Code, 1860 (Act No. 45 of 1860), the Prevention of Corruption Act, 1947 (Act No. 2 of 1947) and Prevention of Corruption Act, 1988 (Act No. 49 of 1988).
- Offences punishable under Rule 6 of the Passport (Entry into India) Rules, 1950 read with Sub-Section (3) of the Section 3 of the Passport (Entry into India) Act, 1920 (Act No. 34 of 1920).
- Offences punishable under Section 25 of the Antiquities and Art Treasures Act, 1972 (Act No. 52 of 1972).
- Offences punishable under Section 132, 133, 134, 135 and 136 of the Customs Act, 1962 (Act No. 52 of 1962).
- Offences punishable under Section 9 and 17 of the Central Excise and Salt Act, 1944 (Act No. 1 of 1944).
- Offences punishable under Clause (iii) of Sub-Section (1) of Section 24 of the Industrial (Department and Regulation) Act, 1951 (Act No. 65 of 1951).
- Offences punishable under the Representation of Peoples Act, 1950 and 1951.
- Offences punishable under Section 4 and 5 of the Anti-Hijacking Act, 1982 (Act No. 65 of 1982).
- Offences punishable under Sections 22, 23 and 25 of the Foreign Contribution (Regulation) Act, 1976 (Act No. 49 of 1976).
- Offences punishable under Sections 51, 52, 55 and 56 of the Indian Post Office Act, 1898 (Act No. 6 of 1898).
- Offences punishable under Section 27 of the Indian Telegraph Act, 1885 (Act No. XIII of 1885).
- Offences punishable under the Indian Wireless Telegraph Act, 1933 (Act No. XVII of 1933).
- Offences punishable under Sections 104 and 105 of Insurance Act, 1938 (Act No. IV of 1938).
- Offences punishable under Section 14 of the Foreigners Act, 1946 (Act No. XXXI of 1946).
- Offences punishable under Section 5 of the Registration of Foreigners Act, 1939 (Act No. XVI of 1939).

- Offences punishable under the Telegraph Wires (Unlawful Possession) Act, 1950 (LXXIV of 1950).
- Offences punishable under Sections 7 and 8 of the Essential Commodities Act, 1955 Act No. X of 1955).
- Offences punishable under Section 12 of the Passport Act, 1967 (Act No. 15 of 1967).
- Offences punishable under the Foreign Exchange Regulation Act, 1973 (Act No. 46 of 1973), and

Attempts, abetments and conspiracies in relation to, or in connection with any of the offences mentioned above and any other offences committed in the course of same transaction arising out of the same facts

[No. 228/15/95-AVD-III]  
S. SOUNDER RAJAN, Under Secy.

पुनर् मंत्रालय  
(राजस्व विभाग)

नई दिल्ली, 31 मार्च, 1995

मुख्यालय स्थापना

क्र.सं. 1634.—केन्द्रीय सरकार, आय-कर अधिनियम, 1961 (1961 का 43) की धारा 245ए द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, श्री आर.एल. मीणा, प्रवर सचिव, विधि, न्याय और कंपनी कार्य मंत्रालय, की तारीख 2-1-1995 से 3 (तीन) वर्ष की अवधि के लिये या भ्रगले प्रादेश होने तक, अग्रिम विनिर्णय प्राधिकरण के अंशकालिक सदस्य के रूप में और श्री डी.बी. लाल, सदस्य, केन्द्रीय प्रत्यक्ष कर बोर्ड, राजस्व विभाग की, तारीख 2-1-1995 से उनकी अधिष्ठापिता की तारीख, अर्थात् 30-6-1996 तक या भ्रगले प्रादेश होने तक, जो भी पहले हो, अग्रिम विनिर्णय प्राधिकरण के अंशकालिक सदस्य के रूप में नियुक्त करती है।

[फा.सं. ए 12026/29/93-प्रशा. 1]

बी.के. मेहता, प्रवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 31st March, 1995

HEADQUARTERS ESTABLISHMENT

S.O. 1634.—In exercise of the powers conferred by section 245-O of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby appoints Shri R. L. Meena, Additional Secretary, Ministry of Law, Justice and Company Affairs as part-time Member of the Authority for Advance Rulings for a period of 3 (three) years with effect from 02-01-1995 or until further orders and Shri D.B. Lal, Member, Central Board of Direct Taxes, Department of Revenue, as part-time Member of the authority for Advance Rulings with effect from 02-01-1995 till the date of his superannuation i.e. 30-6-1996 or until further orders, whichever is earlier.

[F. No. A. 12026/29/93-Ad.I]

B. K. MEHTA, Under Secy.

केन्द्रीय उत्पाद शुल्क समिति का कार्यालय

कोयम्बतूर, 17 मई, 1995

सं. 4/95 सीमा शुल्क (एन.टी.)

क्र.सं. 1635.—सीमा शुल्क अधिनियम 1962 की धारा 152 खण्ड (ए) के अन्तर्गत भारत सरकार, वित्त मंत्रालय, कोयम्बतूर

विभाग, नई दिल्ली के दिनांक 1 जुलाई, 1994 के अधि-सूचना सं० 33/94 सीमा शुल्क (एन०टी०) के अधीन अधोहस्ताक्षरी को प्रत्यायोजित शक्तियों का प्रयोग करते हुए, मैं, ए०पी० सुधीर, समाहर्ता, सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क, कोयम्बतूर एतद्द्वारा तमिलनाडु राज्य, कोयम्बतूर जिला, मेट्टुपालयम तालुक के जडयम्पालयम ग्राम को सीमा-शुल्क अधिनियम, 1962 की धारा 9 के अन्तर्गत 100% निर्यातोन्मुख एकक (ई०ओ०यू०) के घटन के उद्देश्य से भाण्डगारण स्टेशन के रूप में घोषित करता हूँ। जैसा कि उद्योग मंत्रालय औद्योगिक अनुमोदन सचिवालय, नई दिल्ली द्वारा अनुमोदित है।

[फाईल पत्र सं० VIII/40/6/95 सी०शु० नीति]  
ए०पी० सुधीर, समाहर्ता

Office of the Collector of Central Excise

[No. 4/95-CUSTOMS(NT)]

Coimbatore, the 17th May, 1995

S.O. 1635.—In exercise of the powers delegated to the undersigned vide Notification No. 33/94-Cus. (NT), dated the 1st July, 1994 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi, under clause (a) of Section 152 of the Customs Act, 1962, I, A.P. Sudhir, Collector of Customs and Central Excise, Coimbatore, hereby declare the village 'Jadayampalayam' in Mettupalayam Taluk in the District of Coimbatore, State of Tamilnadu, to be a warehousing station under section 9 of the Customs Act, 1962, for the purpose of setting up of 100% Export Oriented Unit, as approved by the Ministry of Industry, Secretariate of Industrial approval, New Delhi.

[File C. No. VIII/40/6/95-Cus. Pol.]

A. P. SUDHIR, Collector

(व्यय विभाग)

नई दिल्ली, 29 मई, 1995

का०आ० 1636.—भविष्य निधि अधिनियम, 1925 (1925 का 19) की धारा 8 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा निम्नलिखित सार्वजनिक संस्थान का नाम उक्त अधिनियम की अनुसूची में शामिल करती है, अर्थात्:—

“मेहता रिसर्च इंस्टीट्यूट आफ मैथमैटिक्स एंड मैथमैटिकल फिजिक्स—इलाहाबाद”

[सं० 4(1)—संस्था V/95(1)]

बि० शेकर, निदेशक

(Department of Expenditure)

New Delhi, the 29th May, 1995

S.O. 1636.—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds to the Schedule to the said Act the name of the following public institution, namely:—

“MEHTA RESEARCH INSTITUTE OF MATHEMATICS AND MATHEMATICAL PHYSICS—ALLAHABAD.”

[No. 4(1)-EV/95(I)]  
V. SEKAR, Director

नई दिल्ली, 29 मई, 1995

का०आ० 1637.—भविष्य निधि अधिनियम, 1925 (1925 का 19) की धारा 8 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा निदेश देती है कि उक्त अधिनियम के उपबंध (धारा-6 “क” को छोड़कर) उक्त अधिनियम की अनुसूची में विनिर्दिष्ट “मेहता रिसर्च इंस्टीट्यूट ऑफ मैथमैटिक्स एंड मैथमैटिकल फिजिक्स—इलाहाबाद” के कर्मचारियों के लाभार्थ स्थापित भविष्य निधि पर भी लागू होंगे।

[सं० 4(1)—संस्था V/95(II)]

बि० शेकर, निदेशक

New Delhi, the 29th May, 1995

S.O. 1637.—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Fund Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act (except section 6-A) shall apply to the Provident Fund established for the benefit of the employees of the ‘MEHTA RESEARCH INSTITUTE OF MATHEMATICS AND MATHEMATICAL PHYSICS—ALLAHABAD’ specified in the Schedule of the said Act.

[No. 4(1)-EV/95(II)]

V. SEKAR, Director

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 31 मई, 1995

का०आ० 1638.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 3 के उपखण्ड (1) के साथ पठित बैंककारी कम्पनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा 3 के उपखण्ड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्द्वारा श्री शत्रुघ्न अवध, वर्तमान उपाध्यक्ष, यूनाइटेड बैंक अधिकारी संघ (मुख्य अधिकारी, आवास ऋण एकक, यूनाइटेड बैंक आफ इंडिया, प्रधान कार्यालय, कलकत्ता के रूप में कार्यरत) को 31 मई, 1995 से 30 मई, 1998 तक के लिए, या जब तक वे यूनाइटेड बैंक आफ इंडिया के एक अधिकारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें से जो भी पहले हो, श्री सुनील कुमार मुखोपाध्याय के स्थान पर यूनाइटेड बैंक आफ इंडिया के निदेशक मंडल में निदेशक के रूप में नामित करती है।

[सं० एफ०-9/35/94-बी०ओ० 1]

के०के० मंगल, अवसर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 31st May, 1995

S.O. 1638.—In exercise of the powers conferred by clause (f) of sub-section 3 of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 read with sub-clause (1) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970,



the Central Government, after consultation with the Reserve Bank of India, hereby nominates Shri Satrugna Adak, presented Vice-President of United Bank Officers' Association (working as Chief Officer, Housing Loan Cell, United Bank of India, Head Office, Calcutta) as a Director on the Board of United Bank of India vice Shri Sunil Kumar Mukhopadhyay, with effect from 31st May, 1995 and upto 30th May, 1998, or until he ceases to be an officer of United Bank of India, whichever is earlier.

[F. No. 9/35/94-BO.I]  
K. K. MANGAL. Under Secy.

### पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय

नई दिल्ली, 2 जून, 1995

का.आ. 1639.—नियमावली 4 के स्पष्टीकरण के अधीन पेट्रोलियम पाइपलाइन (भूमि अर्जन में उपयोगकर्ता का अधिकार) अधिनियम 1963 के परन्तुक के अनुसरण में धारा 17 के अधीन पेट्रोलियम तथा खनिज पाइप

लाइन (भूमि अर्जन में उपयोगकर्ता का अधिकार) का अधिनियम 1962 में सक्षम के परामर्श से जिसके अधीन में उस क्षेत्र के भूमि का उपयोगकर्ता निहित हो, या उस क्षेत्र में पाइप लाइन के स्वामित्व यथास्थिति निहित हो, एतद्वारा घोषित किया जाता है कि बेगायमपेटा से यानम (रीजेन्सी सिरामिक) के गैस पाइप लाइन के प्रचालन समाप्ति की तिथि निम्नानुसार परिशिष्ट अनुसूची के स्तम्भ 8 में अधिसूचित की गई।

प्रतिहस्ताक्षरित

सक्षम प्राधिकारी एवं  
विशेष उप कलक्टर

वरिष्ठ प्रबंधक (पाइप लाइन)  
गेल, राजमुंद्री।

(उपयोगकर्ता का अधिकार)  
गेल, राजमुंद्री।

ग्राह्य प्रदेश के पूर्वी गोदावरी के (बेगायमपेटा से यानम गैस पाइप लाइन के नियमावली 4 के अधीन पेट्रोलियम एवं खनिज पाइपलाइन के अधिनियम के अंतर्गत प्रचालन की समाप्ति तिथि या प्रकाशन की अधिसूचना।

क्रम सं०	ग्राम का नाम या बेहात का नाम	मंडल	उपयोगकर्ता के अधिकार धारा 3(1) के अधीन सूचना	उपयोगकर्ता के अधिकार धारा 6(1) के अधीन सूचना	प्रचालन के समाप्ति तिथि		
1	2	3	4	5	6	7	8
1.	बेगायमपेटा	रामचन्द्रपुरम	25-9-93	1993	14-5-94	1142	12-12-94
				9-9-93		2-5-94	
2.	एरापोतवरम	पामारु	"	1994	"	1143	"
				9-9-93		2-5-94	
3.	अदामपल्ली	"	"	1995	"	1145	"
				9-9-93		2-5-94	
4.	अन्नागो	काजुलूरु	"	1996	"	1144	"
				9-9-93		2-5-94	
5.	कुमैरु	"	"	1997		1146	
				9-9-93		2-5-94	
6.	दुग्गुदुरु	"	"	1998	"	1147	"
				9-9-93		2-5-94	
7.	उप्पुमिल्ली	"	"	1999	"	1148	"
				9-9-93		2-5-94	

8. कोलांका	"	"	2000	"	1149	"
			9-9-93		2-5-94	
9. पल्लीपालेम	"	"	2001	"	1150	"
			9-9-93		2-5-94	
10. उप्पंगला	ताल्लारेवु	"	2002	"	1151	"
			9-9-93		2-5-94	
11. मुन्करपालेम	"	"	2003	"	1152	"
			9-9-93		2-5-94	
12. लच्छीपालेम	"	"	2004	"	1153	"
			9-9-93		2-5-94	
13. मेट्टकुरु	यानाम पांडोचेरी सरकार)	"	2005	"	1154	"
			9-9-93		2-5-94	

[सं० एल-14016/4/93-जी०पी०]

अध्वरेडु सेन, निदेशक

## MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 2nd June, 1995

S.O. 1639.—In pursuance of proviso to Rule 4 under explanation of the Petroleum Pipe Lines (Acquisition of Right of User in Land) Act 1963 framed under section 17 of the Petroleum and Minerals pipe lines (Acquisition of Right of User in Land) Act 1962, the Competent Authority in consultation with the Gas Authority of India Ltd., Rajahmundry in whom the right of user in the land in that area has vested or ownership of the pipe lines in that area vest as the case may be, hereby declares the date of termination of operation

of Gas pipe line from Vegayammapeta to Yanam ( For Regency Cermics) in East Godavari District as noted in column 8 of the schedule appended below.

Sd/- Illegible

Competent Authority &  
Spl: Dy. Collector (ROU),  
GAIL, Rajahmundry.

Countersigned :  
Sr. Manager (P/L),  
GAIL, Rajahmundry.

Notification for publication of date of termination of operations under rule 4 of Petroleum and Minerals pipe line act in respect of Veghayammapeta to Yanam Gas Pipe line in East Godavari District, Andhra Pradesh

Sl. No.	Name of the Village	Mandal	Notice U/s 3(1) of ROU		Notice U/s 6(1) of ROU		Date of Termination of Operation
			Date of Publication of Gazette	S.O. No. & Date	Date of Publication of Gazette	S.O. No. & Date	
1	2	3	4	5	6	7	8
1.	Vegayammapeta	Ramachan Drapuram	25-9-93	1993	14-5-94	114	12-12-94
				5-9-93		2-5-94	
2.	Yerra Pothavaram	Pamaru	do	1994	do	1143	"
				9-9-93		2-5-94	
3.	Addampalli	Pamaru	do	1995	do	1145	"
				9-9-93		2-5-94	
4.	Andranga	Kajuluru	do	1996	do	1144	"
				9-9-93		2-5-94	

1	2	3	4	5	6	7	8
5. Kuyyeru	Kajuluru	25/9/93	1997	14-5-94	1146	12-12-94	
			9-9-93		2-5-94		
6. Dugguduru	-do-	-do-	1998	-do-	1147	„	
			9-9-93		2-5-94		
7. Uppumilli	-do-	-do-	1999	-do-	1148	„	
			9-9-93		2-5-94		
8. Kolanka	-do-	-do-	2000	-do-	1149	„	
			9-9-93		2-5-94		
9. Pallipalem	-do-	-do-	2001	-do-	1150	„	
			9-9-93		2-5-94		
10. Uppongala	Tallarevu	-do-	2002	-do-	1151	„	
			9-9-93		2-5-94		
11. Sunkarapalem	-do-	-do-	2003	-do-	1152	„	
			9-9-93		2-5-94		
12. Latchipulam	-do-	-do-	2004	-do-	1153	„	
			9-9-93		2-5-94		
13. Mittakurru	Yanam(Pondicherry Government).	-do-	2005	-do-	1154	„	
			9-9-93		2-5-94		

[No. L-14016/4/93-G.P.]  
ARDHENDU SEN, Director

जल-भूतल परिवहन मंत्रालय  
(नौवहन पक्ष)

नई दिल्ली, 5 जून, 1995

कां.प्र.० 1640.—वाणिज्यिक पोत परिवहन (लोड लाइन) नियमावली, 1979 के नियम 2 के खंड (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार इस अधिसूचना के साथ संलग्न अनुसूची में निर्दिष्ट सीमाओं के भीतर कार्य करने के लिए उक्त अनुसूची के कालम 3 की प्रविष्टि में विनिर्दिष्ट पोतों के बाहर में उक्त नियमावली के प्रयोजनार्थ प्राधिकार सौंपते हुए इस अधिसूची के कालम 2 में विनिर्दिष्ट वर्गीकरण मोसाइटी को नवम्बर, 1995 के ग्यारहवें दिन तक के लिए एतद्वारा नियुक्त करती है।

अनुसूची

क्रम सं०	वर्गीकरण मोसाइटी	सीमाएं
1	2	3
7.	मैसर्स निप्पन काइजी के.प्रो.काई 105 मेकर जैम्बर्ग V, नरिमन प्वाइंट, बम्बई-400021	(1) कार्गो अथवा यात्रियों को ढोने वाले जहाज के मामले में चाहे वह : (क) 150 अथवा अधिक सकल टन का हो और जिसके पेंडे का निर्माण 21 जुलाई, 1968 से पहले शुरू किया गया हो, अथवा (ख) जिसकी लम्बाई 24 मीटर अथवा अधिक हो और जिसके पेंडे का निर्माण 21 जुलाई, 1968 के बाद शुरू किया गया हो।

[एफ सं०-एस. आर. 12011/7/87-एमए]  
प्रो० पी० महे, अवर सचिव

## MINISTRY OF SURFACE TRANSPORT

(Shipping Wing)

New Delhi, the 5th June, 1995

S.O. 1640.—In exercise of the powers conferred by clause (4) of rule 2 of the Merchant Shipping (Load Line) Rules, 1979, the Central Government hereby appoints upto the 11th day of November, 1995 the classification society specified in column 2 of the Schedule annexed hereto, assigning authority for the purpose of the said rules in respect of ships specified in the corresponding entry under column 3 of the said schedule to act within the limits specified therein.

## SCHEDULE

Sl. No.	Classification Society	Limits
1	2	3
7.	M/s. Nippon Kaiji Kyokai, 105, Maker Chambers V, Nariman Point, Bombay-400021.	(i) in case of Ship carrying cargo or passengers being either; (a) of 150 gross tons more keel of which was laid before 21st July, 1968, or (b) of 24 metres in length or more keel of which were laid on or after 21st July, 1968.

[F. No. SR-12011/7/87-MA]  
O.P. MAHEY, Under Secy.

संचार मंत्रालय  
दूरसंचार विभाग)

नई दिल्ली, 2 जून, 1995

का. आ. 1641.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10(4) के अनुसरण में, संचार मंत्रालय के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों, जिनमें 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है :—

उत्तरी दूरसंचार क्षेत्र (अनुरक्षण) नई दिल्ली

1. कार्यालय निदेशक (अनुरक्षण) नई दिल्ली
2. कार्यालय अधीक्षक अभियन्ता (इलेक्ट्रिकल) नई दिल्ली
3. कार्यालय निदेशक (अनुरक्षण) जयपुर
4. कार्यालय निदेशक (अनुरक्षण) अम्बाला
5. कार्यालय कार्यकारी अभियन्ता जयपुर (इलेक्ट्रिकल)

[सं. : ई-11016/1/94—रा. भा.]

एच. सी. शर्मा, उपनिदेशक (राजभाषा)

MINISTRY OF COMMUNICATION

(Department of Telecommunication)

New Delhi, the 2nd June, 1995

S.O. 1641.—In pursuance of Rule 10(4) of the Official Language (Use for Official purposes of the Union) Rule, 1976, the Central Government hereby notifies following Offices of the Ministry of Communication where of more than 80 per cent staff have acquired working Knowledge of Hindi :

North Telecom. Region (Maintenance) New Delhi.

1. O/o. Director (Mtc.), New Delhi.
2. O/o. Superintendent Engineer (Elect.) New Delhi.
3. O/o. Director (Mtc.), Jaipur.
4. O/o. Director (Mtc.), Ambala.
5. O/o. Exc. Engineer (Elect.), Jaipur.

[No. E-11016/1/94-OL]

H. C. SHARMA, Director (OI).

संस्कृति विभाग

(भारतीय पुरातत्व सर्वेक्षण)

नई दिल्ली, 6 जून, 1995

(पुरातत्व)

का.आ. 1642.—केन्द्रीय सरकार को यह राय है कि इसमें उपाबद्ध अनुसूची में विनिर्दिष्ट प्राचीन संस्मारक राष्ट्रीय महत्व के हैं :

अतः अब केन्द्रीय सरकार प्राचीन संस्मारक तथा पुरातत्वीय स्थल और ग्रवशेष अधिनियम, 1958 (1958 का 24) की धारा 4 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त प्राचीन संस्मारक को राष्ट्रीय महत्व का घोषित करने के अपने आशय को दो मास की सूचना देती है।

केन्द्रीय सरकार इस अधिसूचना के राजपत्र में निकाले जाने की तारीख से दो मास की उक्त अवधि के भीतर उक्त प्राचीन संस्मारकों में हितवद्ध, किसी व्यक्ति से प्राप्त किसी आक्षेप पर विचार करेगी। आक्षेप महानिदेशक, भारतीय पुरातत्व सर्वेक्षण, नई दिल्ली-110011 को भेजे जा सकते हैं।

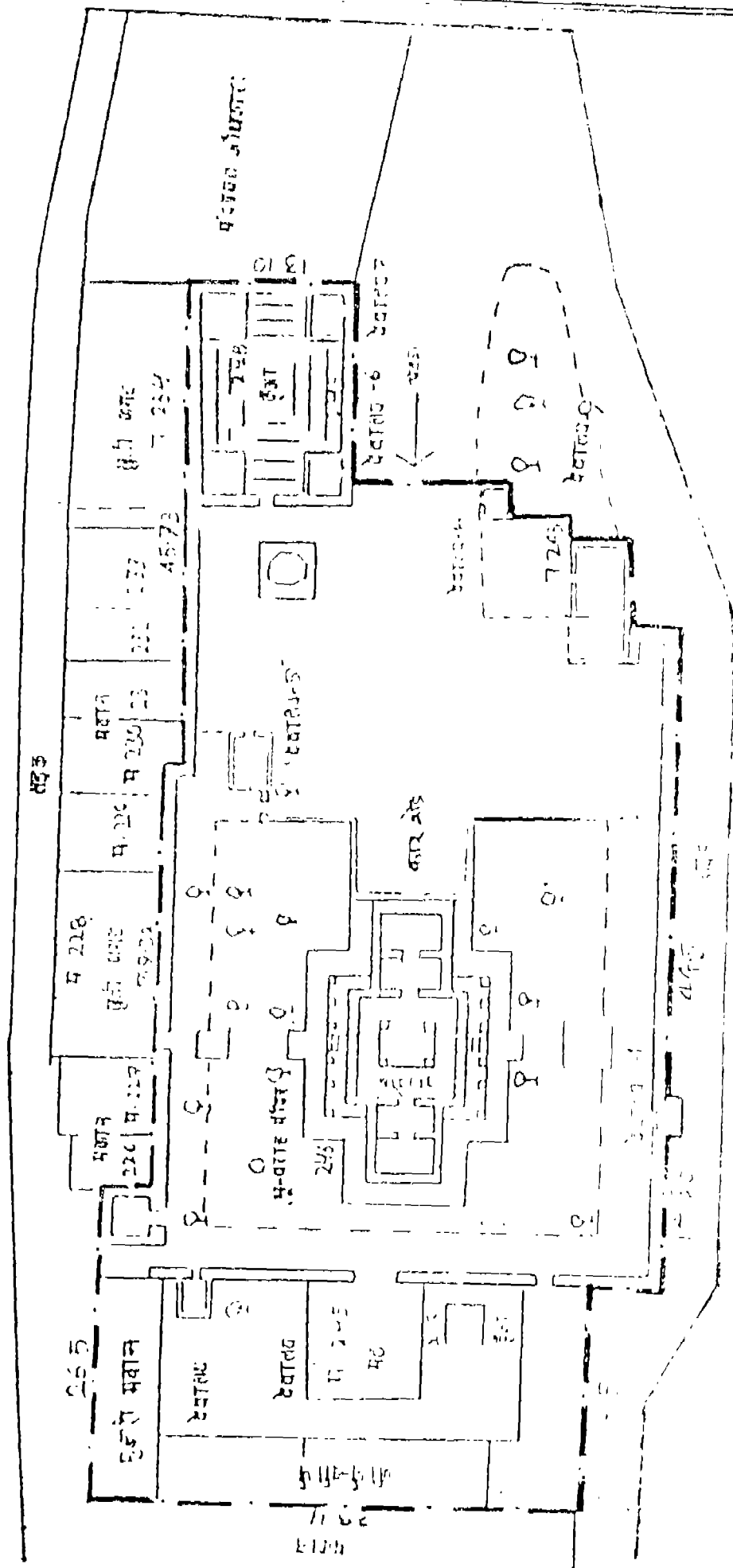
संयुक्त सूची 4					
क्रम सं.	राज्य	जिला	तालुका	परिक्षेत्र	संस्मारक का नाम
1	2	3	4	5	6
1.	कर्नाटक	बेलगाव	खानापुर	हत्सी	भू-बाराह मंदिर (नी सहायक पूजा स्थलों के साथ-साथ मंदिर के उत्तर-पूर्व में सीढ़ीदार कुआँ पश्चिम में एक छोटे कुआँ के साथ)

सर्वेक्षण संख्यांक	क्षेत्र एकड़ में	सीमाएं
7	8	9
प्लॉट संख्यांक, 243, 244, 245, 246, 248 और 249 सभी पूर्णतः और इसके साथ इस परिमर का खला क्षेत्र।	एकड़-गुंटा 1-02 (0.42 हैक्टर)	उत्तर—सड़क प्लॉट संख्यांक 226 से 234 दक्षिण: सड़क पश्चिम: प्लॉट संख्यांक 137/अ मकान पूर्व: प्लॉट संख्यांक 251 पंचायत कार्यालय और सड़क।

स्वामित्व	टिप्पणियाँ
10	11
मंडल पंचायत हल्सी (सरकार की अन्य संरक्षण किया जाता है)	<ol style="list-style-type: none"> <li>संरक्षण के लिए प्रभावित संपूर्ण क्षेत्र मंडल पंचायत, हल्सी के स्वामित्व में है, चूंकि क्षेत्र पूरी तरह से पंचायत सीमाओं (ग्राम टाना) के भीतर आता है इसलिए मंडल पंचायत ने सर्वेक्षण संख्यांक के बदले पंचायत संख्यांक दिया है।</li> <li>पुजारियों के क्वार्टर और जीर्ण जेड भी मंदिर का सम्पत्ति के भाग हैं।</li> <li>मुख्य मंदिर और सहायक पूजा स्थलों में नियमित रूप से पूजा होती है।</li> </ol>

## भू-वराह मंदिर का स्थल मान चित्र

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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सरक्षण हेतु प्रस्तावित क्षेत्र

## अनुसूची

क्रम नं.	राज्य	जिला	तालुका	परिक्षेत्र	संस्मारक का नाम
1	2	3	4	5	6
2.	कर्नाटक	बेलगांव	खानापुर	हल्सी	कमलेश्वर मंदिर

सर्वेक्षण नं.	क्षेत्र एकड़ में	सीमाएं
7	8	9
सर्वेक्षण संख्यांक	एकड़ गुंटा	उत्तर : ग्राम टाना खुला स्थान
1/1	0-10	दक्षिण : ग्राम टाना मकान
1/2	0-11	पूर्व : ग्राम टाना खुला क्षेत्र
1/3	0-12	पश्चिम : प्लाट संख्यांक 218 ग्राम टाना मकानों के
1/4	0-12	शेष भाग
ग्राम टाना	0-04	
प्लाट सं. 218		
(भाग)	1.9	
	कुल एकड़ (0.49 हेक्टर)	

स्वामित्व	टिप्पणियां
10	11

प्लाट संख्यांक 218 हल्सी मंडल पंचायत का है

(सरकार को अन्य संक्रामण किया जाता है)

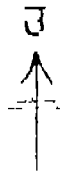
सर्वेक्षण संख्यांक 1/1 से 1/4 तक प्राइवेट व्यक्तियों के हैं जिनका

अर्जन किया जाता है।

यह मंदिर धार्मिक उपयोग में नहीं है।

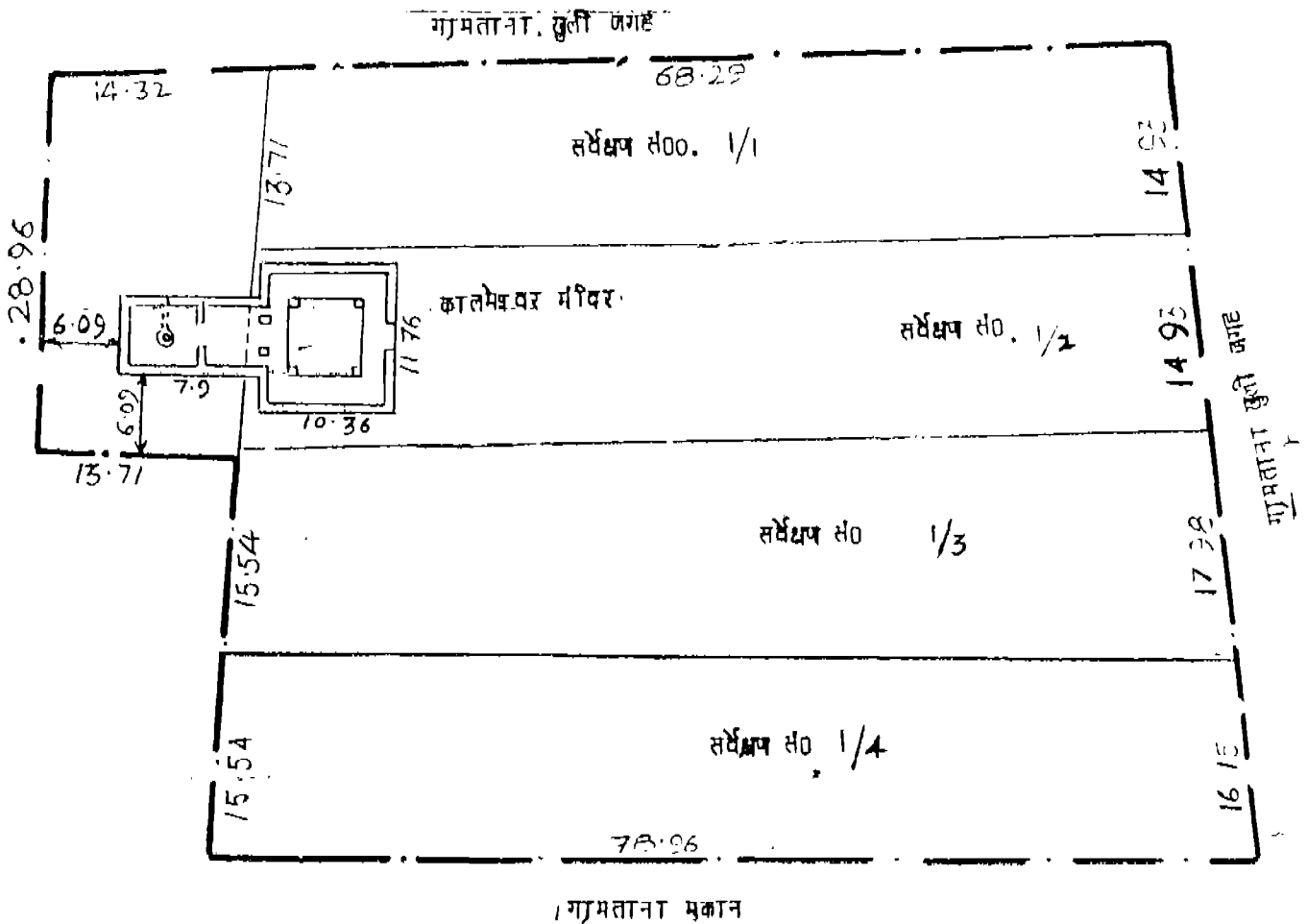
# कालमेश्वर मंदिर का स्थल मानचित्र

हालधी तालुक खानापुर जिला बेलगाम (कर्नाटक)



6 0 6 12 मीटर.

सर्वेक्षण सं० 218, का क्षेत्र भाग गुप्तताना मकान



संरक्षण हेतु प्रस्तावित क्षेत्र —————



## अनुसूची

क्रम सं.	राज्य	जिला	तालुका	परिक्षेत्र	सम्मानक का नाम
1	2	3	4	5	6
3.	कर्नाटक	बेलगांव	खानापुर	हल्सी	सुवर्णेश्वर मंदिर

सर्वेक्षण नं.	क्षेत्र एकड़ में	सीमाएं
7	8	9
प्लॉट संख्यांक 469 (संपूर्ण)	एकड़-गुंटा 0-06 (6 गुंटा) (0.06 हेक्टेयर)	उत्तर : सड़क, प्लॉट संख्यांक 466 दक्षिण : सड़क, मकानों सहित प्लॉट संख्यांक 433 और 434 पूर्व : सड़क पश्चिम : मकान सहित प्लॉट संख्यांक 465 और 467

स्वामिभूत

टिप्पणियाँ

10

11

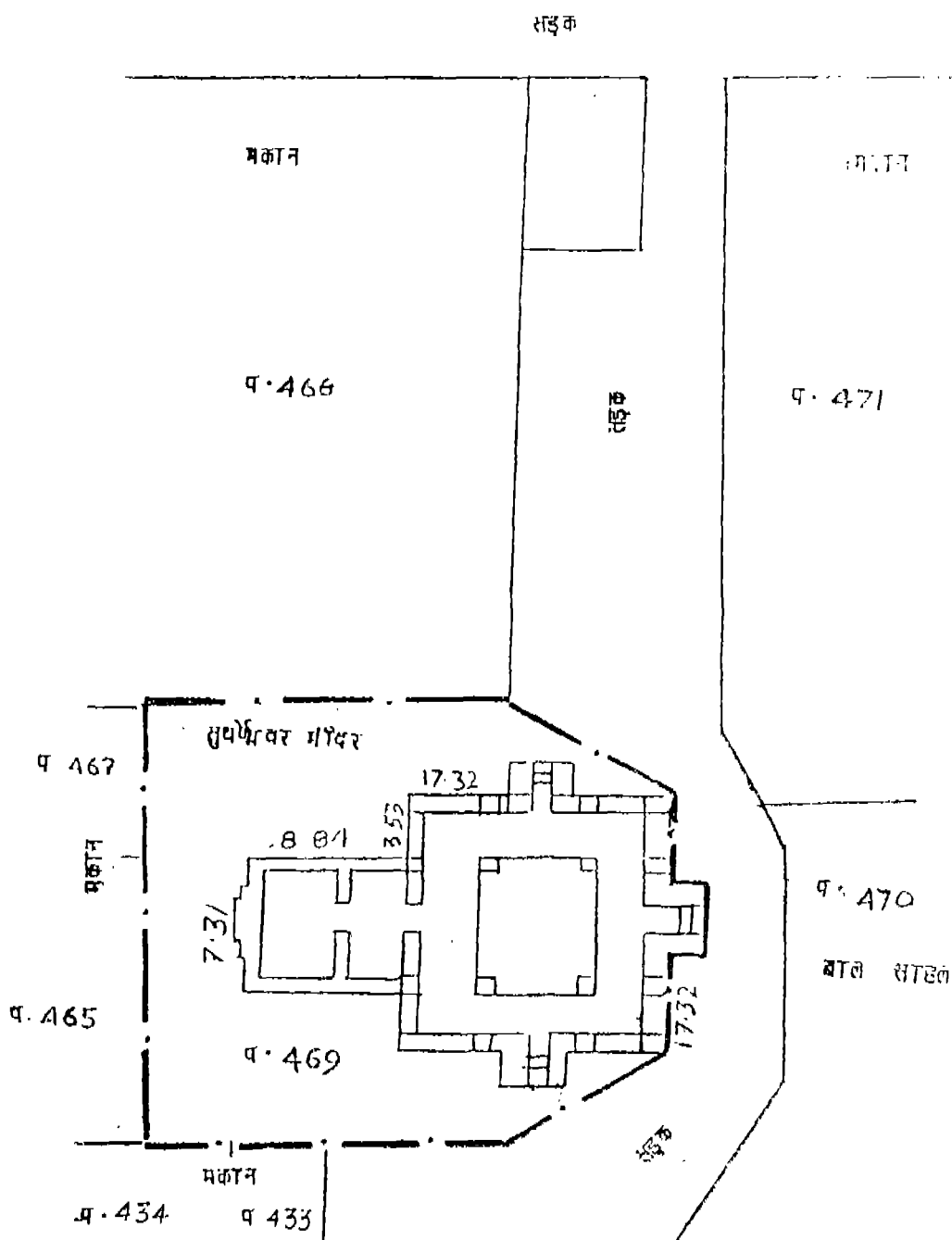
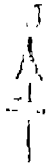
हल्सी मंडल पंचायत  
(सरकार को अन्य संग्रामण किया जाना है)

धार्मिक उपयोग में नहीं है

# सुवर्णेश्वर मंदिर का स्थल मानचित्र

हालशी तालुक खानापूर जिला बेलगाम (कर्नाटक)

6 0 6 12 मीटर



संरक्षण हेतु प्रस्तावित क्षेत्र

## अनुसूचा

क्रम सं.	राज्य	जिला	तालुका	परिक्षेत्र	संस्मारक का नाम
1	2	3	4	5	6
4.	कर्नाटक	बेलगाँव	खानापुर	हत्ती	रामलिंगेश्वर मंदिर सहायक पूजा स्थलों अर्थात् पूर्व में सूर्य नारायण मंदिर और दक्षिण पूर्व में जीर्णोद्धार ईश्वर मंदिर के साथ

सर्वेक्षण न.	क्षेत्र एक : में	विवरण
7	8	9
सर्वेक्षण सं. 456, भाग, 312 फुट उत्तर दक्षिण पूर्व-पश्चिम 280 फुट	एकड़-मुंटा 2-00 (0.81 हेक्टर)	उत्तर : सर्वेक्षण सं. 456 का शेष भाग दक्षिण : सर्वेक्षण सं. 456 का शेष भाग पूर्व : सर्वेक्षण सं. 456 का शेष भाग पश्चिम : सर्वेक्षण सं. 456 का शेष भाग

स्वामित्व	टिप्पणियाँ
10	11

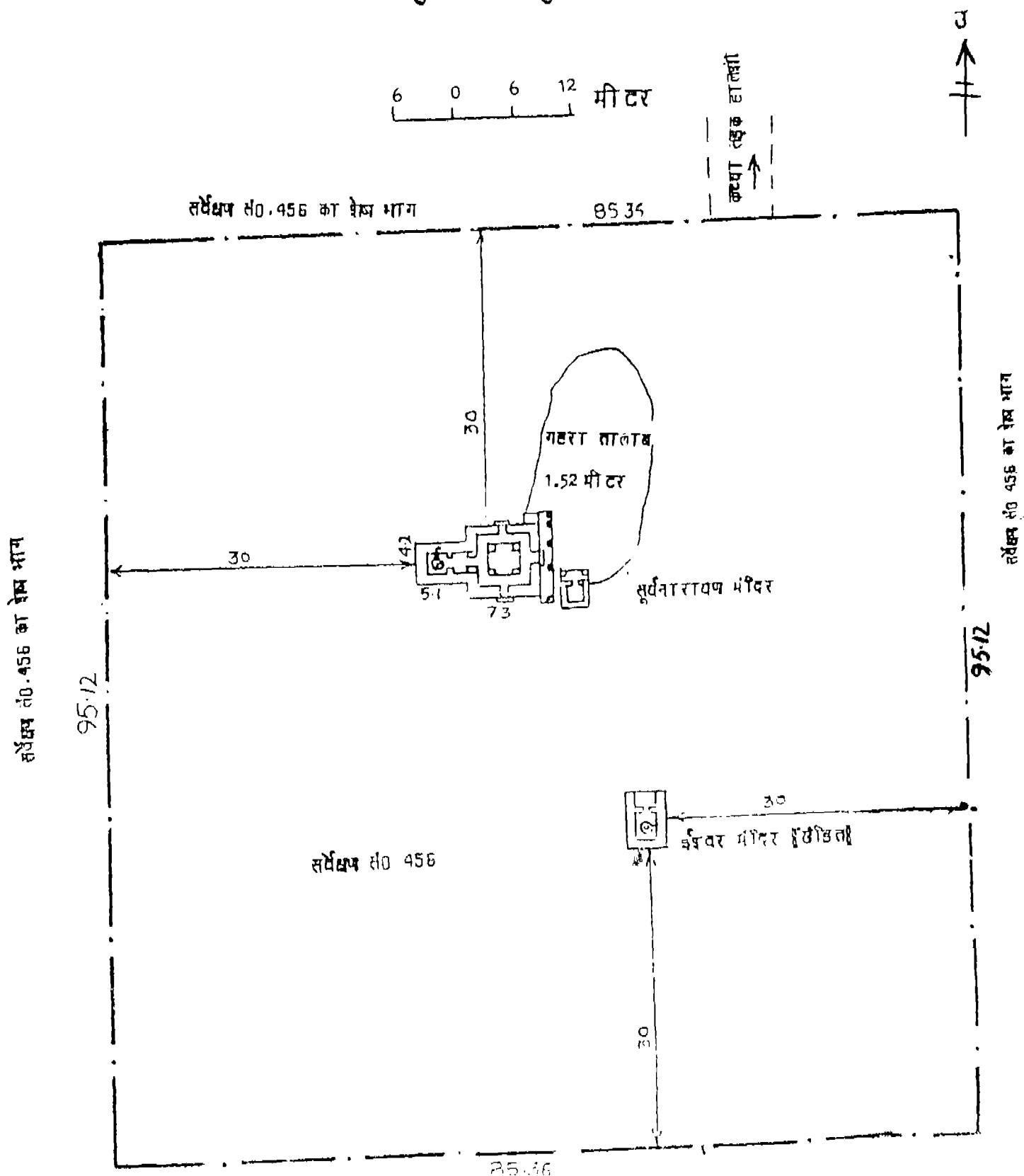
सरकारी वन विभाग को अल्प संक्रामण किया जाता है

धार्मिक उपयोग में नहीं है

[सं. 2/41/88-एम]

एस.के. महापात्र, सचिव संस्कृति/महानिदेशक

6      0      6      12      मीटर



सरक्षण हेतु प्रस्तावित क्षेत्र

## DEPARTMENT OF CULTURE

(Archaeological Survey of India)

New Delhi, the June 6, 1995

(ARCHAEOLOGY)

S.O. 1642.—Whereas the Central Government is of the opinion that the ancient monuments specified in the Schedule annexed hereto are of national importance;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby gives two months notice of its intention to declare the said ancient monuments to be of national importance.

Any objection which may be received within the said period of two months from the date of issue of this notification in the Official Gazette from any person interested in the said ancient monuments will be taken into consideration by the Central Government. The Objection may be sent to the Director General, Archaeological Survey of India, New Delhi-110011.

## SCHEDULE

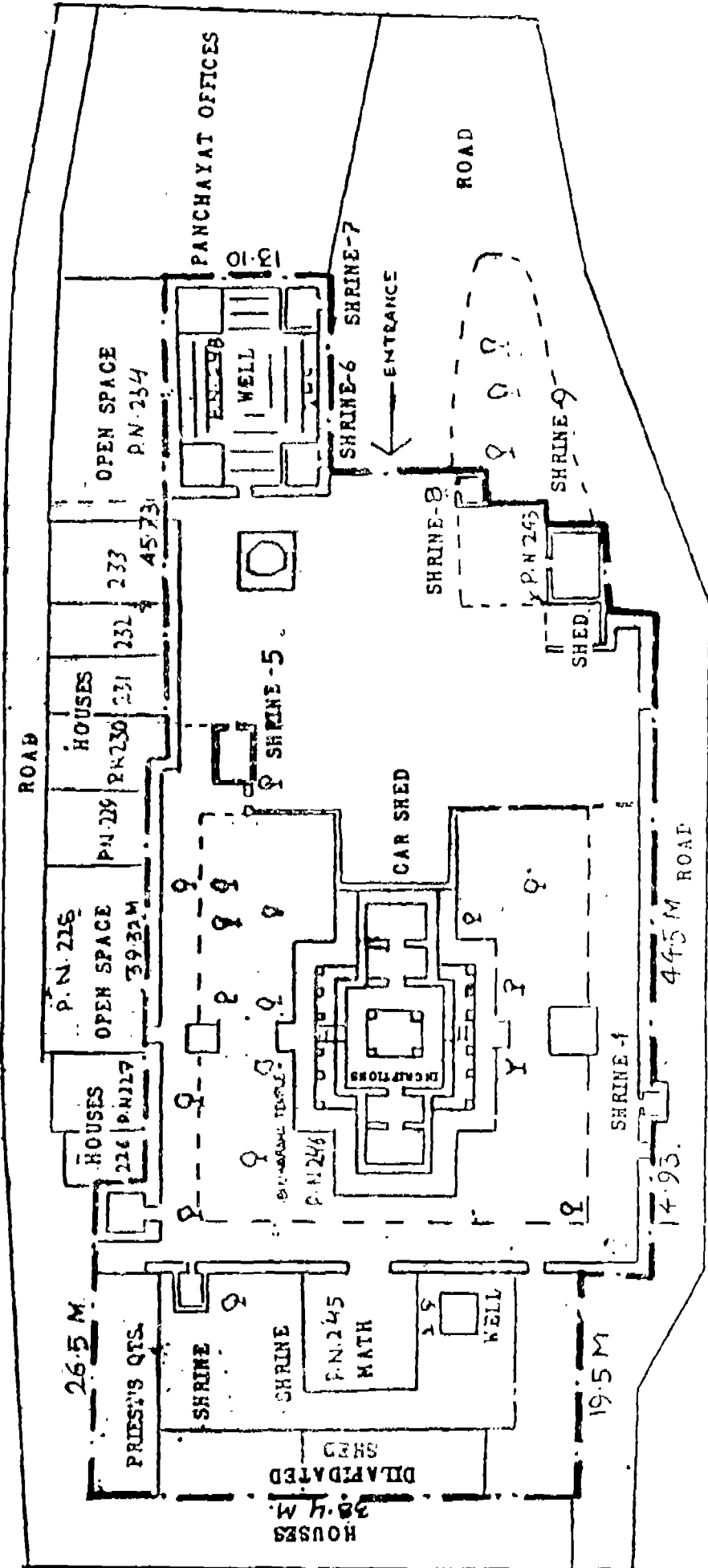
Sl. No.	State	District	Taluk	Locality	Name of the monument	Survey number
1	2	3	4	5	6	7
	Karnataka	Belgaum	Khanapur	Halshi	Bhu-Varaha temple (along with nine subsidiary shrines, stepped well to the north-east of the temple and a small well to the west).	Plot numbers 243, 244, 245, 246, 248 and 249 all in full along with the open area in this premise.

Area in Acres	Boundaries	Ownership	Remarks
8	9	10	11
Acres—Gunta 1—02 (0.42 Hectares)	North : Road Plot numbers 226 to 234 South : Road West : Plot number 137/B Houses. East : Plot number 251 Panchayat office and road.	Mandal Panchayat, Halshi (Government to be alienated)	1. The whole area proposed for protection is owned by Mandal Panchayat, Halshi since the area falls well within the Panchayat limits (Gramatana) the Mandal Panchayat has given Panchayat Nos. instead of survey numbers. 2. The Priest's quarters and the dilapidated shed also form part of the temple complex. 3. The main temple and the subsidiary shrines are in regular worship.

# SITE PLAN OF BHU-VARAHA TEMPLE AT HALSHI TALUK-KHANAPUR DISTT. BELGAUM (KARNATAKA)



6 0 6 12  
METRES



AREA PROPOSED FOR PROTECTION

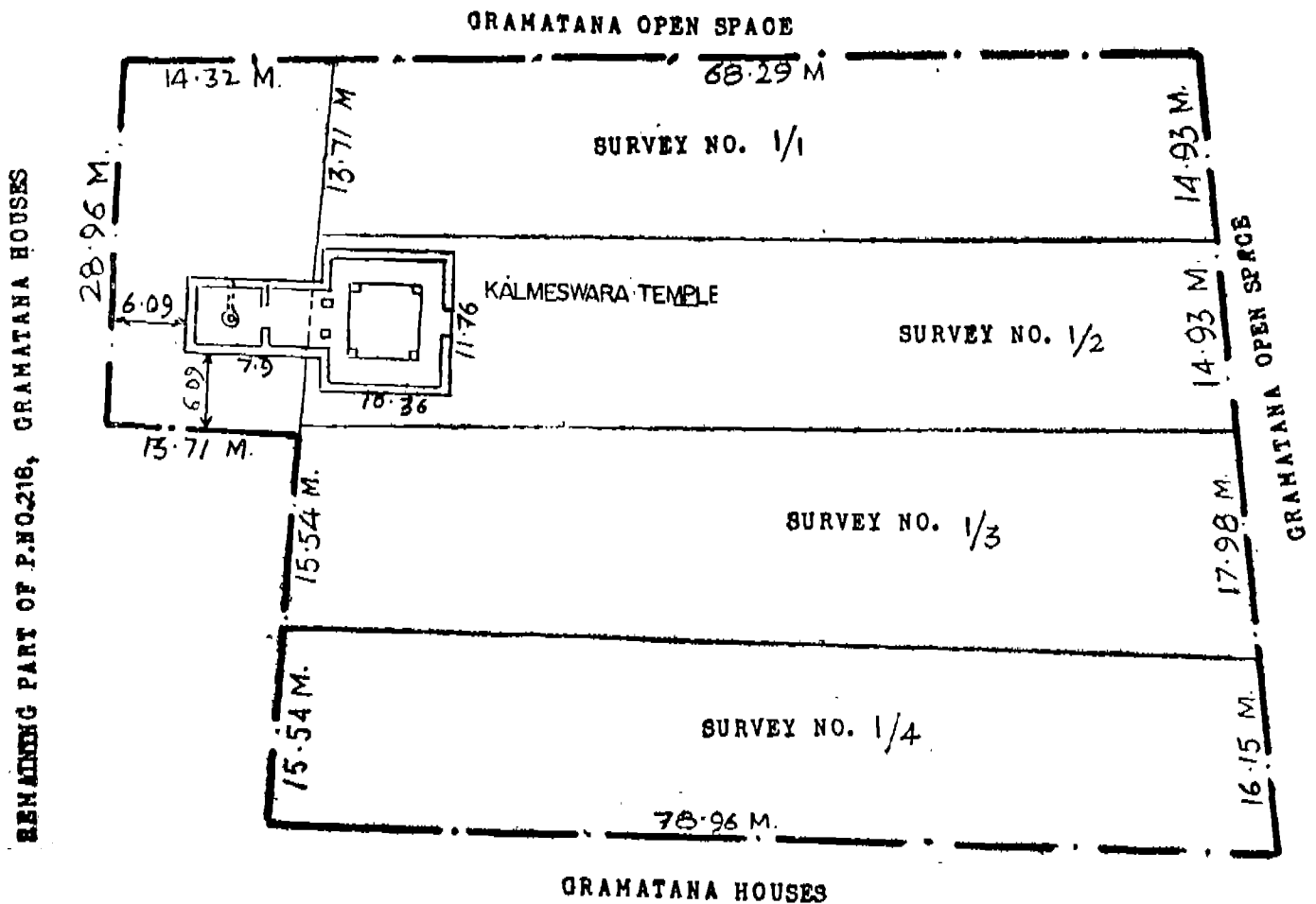
## SCHEDULE

Sl. No.	State	District	Taluk	Locality	Name of monument	Survey No.
1	2	3	4	5	6	7
2.	Karnataka	Belgaum	Khanapur	Halshi	Kalmeswara temple	Survey Numbers 1/1 1/2 1/3 1/4 Gramatana Plot No. 218 (Part)

Area in Acres	Boundaries	Ownership	Remarks
8	9	10	11
Acres—Gunta 0—10 0—11 0—12 0—12 0—04 1—9G	North : Gramatana open space. South : Gramatana houses. East : Gramatana open area. West : Remainin part of plot Number 218 Gramatana houses.	Plot Number 218 belongs to Halshi Mandal Panchayat (Government to be alienated) Survey numbers 1/1 to 1/4 belong to private person which are to be acquired.	This temple in not in religious use
Total area (0.49 Hectare )			

# SITE PLAN OF KALMESWARA TEMPLE AT HALSHI TALUK KHANAPUR DISTT. BELGAUM (KARNATAKA)

6 0 6 12 METRES.



AREA PROPOSED FOR PROTECTION



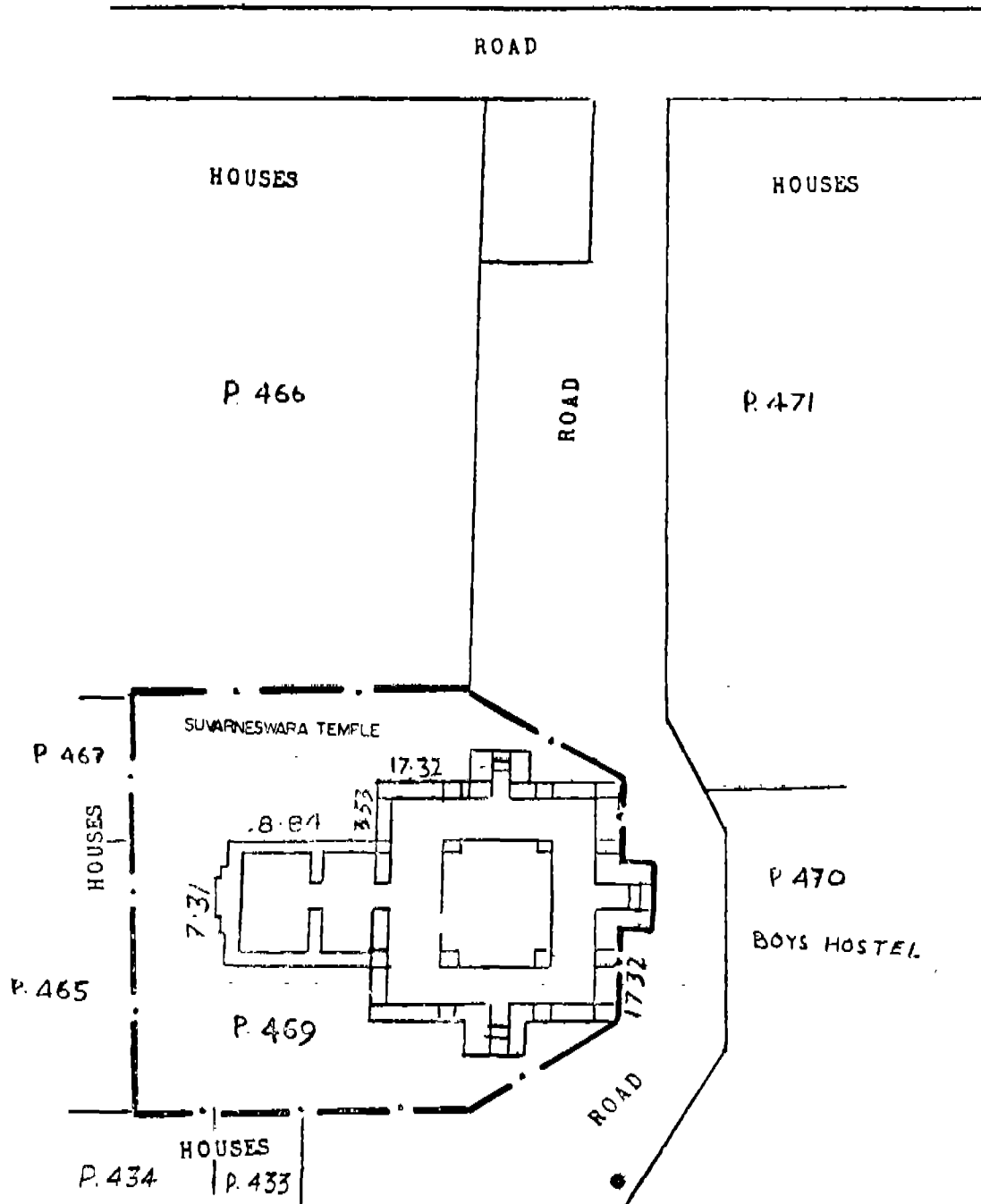
## SCHEDULE

Sl. No.	State	District	Taluk	Locality	Name of monument	Survey numbers
1	2	3	4	5	6	7
3.	Karnataka	Belgaum	Khanapur	Halshi	Suvarnesvara temple	Plot number 469 (full)

Area in acres	Boundaries	Ownership	Remarks
8	9	10	11
Acres—Gunta 0—06 (6 guntas) (0.06 hectare)	North : Road, Plot number 466 South : Road, Plot number 433 & 434 with houses. East : Road. West : Plot number 465 & 467 with houses.	Halshi Madal Panchayat (Government to be alienated)	Not in religious use.

# SITE PLAN OF SUVARNESWARA TEMPLE AT HALSHI TALUK-KHANAPUR DISTT. BELGAUM (KARNATAKA)

6 0 6 12 METRES



AREA PROPOSED FOR PROTECTION

## SCHEDULE

Sl. No.	State	District	Taluk	Locality	Name of the monument	Survey Number
1	2	3	4	5	6	7
4.	Karnataka	Belgaum	Khanapur	Halshi	Ramalingeswara temple alongwith subsidiary shrines viz., Surya- narayana temple on east & ruined Iswara temple on the South- East.	Survey No. 456, part 312 ft. North South X 280 ft. East West.

Area in Acres	Boundaries	Ownership	Remarks
8	9	10	11
Acres—Gunta 2—00 (0.81 Hectares)	North : Remaining Part of Survey No. 456 South : -do East : do West : -do-	Government Forest Department to be alienated	Not in religious use.

[No. 2/41/88 M]

S.K. MAHAPATRA, Secy. Culture/Director General

# SITE PLAN OF RAMALINGESWARA TEMPLE AT HALSHI TALUK-KHANAPUR DISTT. BELGAUM

(KARNATAKA)

6 0 6 12 METRES



REMAINING PART OF SURVEY NO. 456

85.35 M

KUTCHA ROAD HALSHI



REMAINING PART OF SURVEY NO. 456

REMAINING PART OF SURVEY NO. 456

95.12 M

95.12 M

30 M.

DEEP POND  
1.52 MTR.

30 M

Y 42

5.1 M

7.3 M

SURYANARAYANA TEMPLE

PART OF SURVEY NO. 456

FOREST LAND

30.11



ISWARA TEMPLE (RUINS)

30 M

85.36 M

AREA PROPOSED FOR PROTECTION

अम मंत्रालय

नई दिल्ली, 16 मई, 1995

का. आ. 1643 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ सी आई के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-5-95 को प्राप्त हुआ था।

[सं. एल—22012/336/एफ/89 आई आर (सी-II)]

राजालाल, डेस्क अधिकारी

## MINISTRY OF LABOUR

New Delhi, the 16th May, 1995

S.O. 1643.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on the 12-5-95.

[No. L-22012/336/F/89-IR(C-II)]

RAJA LAL, Desk Officer

## ANNEXURE

## INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

## PRESENT:

Sri P. K. Tripathy, M.A. LL.B.,  
Presiding Officer,  
Industrial Tribunal,  
Orissa, Bhubaneswar.

Industrial Dispute Case No. 10 of 1990 (Central)

Dated. Bhubaneswar, the 29th April, 1995

## BETWEEN

The management of Food Corporation  
of India, At P.O. Sambalpur,  
District Sambalpur, Orissa.

.....First Party-  
management.

## AND

Their workman Sri Rabindra Kumar  
Mohanty, At Bargarh BRIT Colony,  
Qr. No. E.B. 699, BJB Colony,  
Bhubaneswar-751014.

.....Second Party-  
workman.

## APPEARANCES:

Sri A. K. Guru, Advocate—For the First party-manage-  
ment.

Sri S. B. Nanda, Advocate—For the second party-work-  
man.

## AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947). (for short 'the Act')

1295 GI/95—4.

have referred the following dispute for adjudication by this Tribunal vide their Order No. 22012(336)/F/89-IR(C.II) dated 13-3-90 :—

"Whether the action of the District Manager, Food Corporation of India, Sambalpur in refusing employment to Sri Rabindra Kumar Mohanty, Ex-Casual Watchman w.e.f. 1-8-82 is lawful and justified? If not, to what relief is the concerned workman entitled?"

2 The case of the second party/workman as put forth in his claim statement is that initially he was appointed as a casual workman on daily wage basis at the food storage depot of the Food Corporation of India (management) at Hirakud with effect from 14-6-1982. On 29-6-82, the Senior Regional Manager, Bhubaneswar was pleased to issue an office order regularising the service of the workman with effect from 29-6-82. On that basis the workman submitted his joining report as a regular Watchman in the district office, of the management at Sambalpur. The District Manager, Sambalpur who is subordinate to the Sr. Regional Manager, however, did not issue a formal order in Regional Manager as because the workman due to poverty could not satisfy the demand for illegal gratification. As a consequence the second party-workman was refused employment with effect from 1-8-82 as per the order of the District Manager notwithstanding the fact that several other casual workmen appointed by the first party contemporaneously and subsequent to him (workman) were regularised in employment. In that connection, the second party when failed to convince the District Manager, approached the Regional Office for sympathy and redressal. The concerned Senior Regional Manager who had passed that order regularising the service of the workman had in the meantime been transferred and therefore, the Regional Office turned a deaf ear to the approach of the second party. Ultimately, he initiated the dispute through the Assistant Labour Commissioner (Central), Rourkela and the first party did not cooperate for a conciliation, hence it ended in failure and culminated into the reference under consideration. The second party has further stated that the act of the management is illegal and in violation of the provisions in Section 25-G, 25-T and 25-H of the Act and Article 14 and 16 of the Constitution. He has thus prayed to pass an Award regularising his service with effect from 29-4-82 and to reinstate him with full back wages and other service benefits.

3. In the written statement, the first party-management through the District Manager, Food Corporation of India, Sambalpur has advanced the contention that the second party was engaged on daily wage basis with the condition of 'no work no pay' during the period from 14-6-82 to 31-7-82. The second party received his daily wage and thereafter he left the place of work at his own sweetwill without any intimation to the first party. It has further stated that the first party does not know if at all the Regional Manager, Bhubaneswar was pleased to issue an office order to regularise the service of the second party. In that connection, the management observes certain rules and procedure for regularising the services of the casual workers and conducts interview for the eligible candidates and issues appointment letters accordingly under the seal and signature of the Regional Manager, Food Corporation of India, Bhubaneswar. So far the case of the second party is concerned, no such procedure was ever followed, hence the second party was called-upon to prove the relevant contention. The first party has further denied to the allegation of violation of the provision of Section 25-H of the Act and has contended that no casual Watchman has been appointed by the first party on regular basis at the relevant time and that proper procedures were followed whenever there were vacancies which were filled-up. In that connection, the second party never applied to the first party or any other competent authority to regularise his service. All other assertions in the claim statement of the second party have been denied. The first party has further stated that the Modern Rice Mill, Hirakud was practically closed down with effect from 26-8-85 and as per the Minutes and decision dated 8-11-85 of the Headquarters Office at New Delhi the machineries of that Mill were to be disposed of. Alternatively, it is contended that if the Regional Manager had passed any order regularising the service of the second party, then that order is illegal and not enforceable.

The first party has also challenged the maintainability of the reference on the grounds of non-joinder and mis-joinder of parties and has thus prayed to reject the contention of the second party, not to grant any relief to him and to pass the Award accordingly.

4. Issues have been settled as follows:—

#### ISSUES

- (1) If the reference is maintainable?
- (2) If the Senior Regional Manager, Food Corporation of India, Bhubaneswar issued an order regularising the services of the second party-workman and if so, if on the basis of the said order the second party-workman got a right to the post in which he had been working?
- (3) If there was refusal of employment to the second party-workman with effect from 1-8-82 and if so, whether it was lawful and justified?
- (4) To what relief, if any, the second party-workman is entitled?

5. To prove their respective contentions, both the parties have adduced evidence. In that connection, the workman has examined himself as the solitary witness and has relied upon documents marked Exts. 1 to 12. The management has examined two witnesses, viz., M.W. No. 1 Sri K. Babu Rao Manjardkar, the then District Manager, Food Corporation of India, Sambalpur and M.W. No. 2 Sri Prabodh Kumar Dzungung, Assistant Manager, Food Corporation of India, Sambalpur. The management has relied upon documents marked Exts. A to C.

6. Issue No. 1.—No evidence has been adduced by the management in support of the issue on maintainability. Even at the stage of argument nothing was stated challenging the maintainability of the reference. Hence, the issue is disposed of as not pressed.

7. Issue Nos. 2 and 3.—These two issues are taken-up together for the sake of convenience. The undisputed and admitted fact is that the second party worked as a casual Watchman on daily wage basis under the management with effect from 14-6-82 to 31-7-82. In that connection, the workman has stated that on the basis of an interview at Bhubaneswar he was selected and given the casual engagement. Disputing the same the management has contended that there was no such mode of selection. On the other hand, the second party was engaged by the Unit Manager at Hirakud. In that connection, the management has relied upon Exts. A and B. Ext. A is a letter dated 30-7-92 from the Dy. Manager, Personnel to the District Manager, Sambalpur, Food Corporation of India. On perusal of Ext. A it appears that the Dy. Manager, Personnel has reported that no documents are available at the Regional Office relating to the interview held during 1982, if any such interview was at all conducted. In other words, the opinion of the Dy. Manager, Personnel regarding no interview is on the ground of non-availability of the concerned records. Thus, his opinion is not conclusive. The Deputy Manager, Personnel has not ruled out the possibility of any interview and that is why in a later paragraph in Ext. A he has asked the District Manager to collect the necessary particulars from the second party relating to the said interview. If the Dy. Manager, Personnel could have been positive from the official record that there was no such interview, then he would not have called upon the second party to produce the documents in support of such an interview. Instead of asking the second party to produce such documents as well the Dy. Manager, Personnel could have called for the particulars from the Employment Exchange and could have given a positive report as to whether there was or was not any interview. After lapse of ten to twelve years asking the second party to produce documents in support of the interview is too much for the management to expect from a temporary employee like the second party. When the Regional Office is supposed to maintain the records and registers relating to all official transaction including recruitment, appointment etc., it was for the Regional Office to report with certainty whether or not there was an interview. As mentioned above, the opinion of the Dy. Manager, Personnel as noted in Ext. A is not conclusive regarding absence of any interview. On the other hand, that opinion being basing

upon non-availability of the particulars from some office record which were verified under such circumstance Ext. A does not rule out the possibility of an interview in the year 1982. The first party has further contended that in his representation, Ext. B the second party did not mention anything about the interview and therefore, the plea raised by the second party is an after thought falsehood. This contention is also equally not acceptable, in as much as, in Ext. B the second party had requested to regularise him or atleast to give him engagement on the basis of the previous engagement and when others have been considered in that manner. In such a correspondence, it is not necessary to mention about the interview and the selection. Under such circumstance, the management which could have positively proved the aspect relating to interview or no interview through its official records has not come forward with decisive evidence. On the other hand, the workman in his evidence has clearly stated about the interview and in that connection, he has withstood the cross-examination. Thus, the contention of the workman is accepted.

8. Be that as it may, for the sake of discussion, even if it is held that the workman was not selected in any such interview, then also that does not change the complexion of the case, in as much as, the bone of contention of the second party is that during the period of his casual employment, as per the order of the Senior Regional Manager he was regularised in service but a formal appointment letter was not issued and illegally he was refused employment with effect from 1-8-82. Under such circumstance, whether he was initially engaged on the basis of an interview by the Regional Office or because of the casual employment given by the Unit Manager that makes no difference.

9. The crux of the matter is as to whether the Senior Regional Manager passed the order on 29-6-82 regarding regularisation of service of the second party-workman. Besides his oral evidence, the second party has also filed Ext. 1, a xerox copy of the order of Sri A. A. Faridi, the then Sr. Regional Manager. At the stage of hearing and argument, on being asked the second party has also produced the copy of the order (from which the xerox copy Ext. 1 was prepared) and the same has been placed in record below Ext. 1. On perusal and comparison, it is found that Ext. 1 is the true xerox copy of the said letter. It appears from Ext. 1 that the second party was regularised in service as a Watchman w.e.f. 29-6-82 and in that connection, the District Manager, Sambalpur was directed to issue formal order as per Rules. The first party has however disputed to the genuineness and correctness of the aforesaid letter, Ext. 1. In that connection, the first party has banked upon the aforesaid letter, Ext. A. In connection with Ext. 1, it has been mentioned in Ext. A that—

“With regard to the regularisation of services of one Shri Bhagaban Behera basing on the orders of the then Sr. Regional Manager and as indicated in the deposition, it is stated that no such regularisation of Shri Bhagaban Behera basing on the orders of the then Sr. Regional Manager, Camp at Hirakud (as per xerox copy) and non-regularisation of Shri Mohanty can only be ascertained from District Office records. The Regional Office is not in a position to ascertain it at this belated stage, since no such case has been dealt with.

A mere perusal of the above quoted portion from Ext. A goes to show that the Regional Office is not certain whether or not the service of the second party was regularised as per the order of the Sr. Regional Manager passed in the Camp at Hirakud. The Regional Office has shifted the responsibility for verification of records at Sambalpur relating to the said matter of regularisation. Therefore, Ext. A inso facto does not rule out the regularisation of service in the manner claimed by the second party.

10. The management has alleged that Ext. 1 is a forged and fabricated document. In that connection, the first party has not led any evidence to prove the aforesaid contention. M.W. Nos. 1 and 2 have pleaded their ignorance to identify the signature of Sri A. A. Faridi the then Sr. Regional Manager. When it is admitted that during the relevant period Sri A. A. Faridi was serving as the Senior Regional Manager, it was necessary for the first party to prove the authenticated signature from the official file so as to challenge the genuineness.

ness of the signature in Ext. 1. In that connection, the management has led no evidence. By merely saying that Ext. 1 is a forged and/or fabricated document, that is not sufficient to accept that contention when that aspect has not been proved by the first party. As has been stated above, when the management has not led any positive evidence to show that the signature of Sri A. A. Faridi was in any other manner than in Ext. 1, under such circumstance, the aforesaid contention of the first party is not acceptable. In addition to that, the workman has proved the circumstance in which he got the copy of Ext. 1. In that connection, the first party has not been able to challenge and shatter the evidence of W.W. No. 1. In addition to that, it appears from Ext. 4, another order of the Sr. Regional Manager wherein another worker, namely, Bhagaban Behera was ordered to be regularised in service during the Camp at Hirakud. Without disputing the contents of Ext. 4, the management has challenged the contents of Ext. 1. In other words, the management admits the correctness of Ext. 4. The management as well could have produced the original of Ext. 4 from the office record to show in what manner the signature of the Sr. Regional Manager was different or distinguishable. That sort of evidence has not been led by the first party for the reason best known to it. In addition to that, it appears from Ext. 2, a representation letter dated 8-3-83 addressed by the second party to the District Manager, Food Corporation of India, Sambalpur regarding regularisation, that in that letter the second party had mentioned about the order, Ext. 1. It reveals from Ext. 3 that at that stage the District Manager forwarded the said representation to the Regional Manager and did not make any comment disputing the correctness in the assertion made by the second party regarding the order, Ext. 1. The first party has also not produced any document to show or suggest that it denied the authenticity or correctness of the order, Ext. 1 which had been mentioned in Ext. 2 and in that connection, took appropriate action against the workman. Similarly, in a series of correspondences vide representations Exts. 9 to 9/5 the second party went on referring to the Ext. 1 and praying for his regularisation in service but the management at no point of time intimated anything to the second party that the aforesaid order of regularisation by the Sr. Regional Manager is not true or false. Even in Ext. B the second party has prayed for appointing him as a casual Watchman if at all he was not going to be regularised. All the aforesaid evidence thus supports the contention of the second party that Ext. 1 is a genuine and valid document. Similarly, it does not support the contention of the first party to the effect that Ext. 1 is a forged or fabricated document.

11. It has already been noted that the service of Sri Bhagaban Behera was regularised by issuing the appointment letter, Ext. 5 on the basis of the order, Ext. 4 of the Senior Regional Manager and that the appointment letter, Ext. 5 was issued by the M.W. No. 1. That part of the fact and circumstance has also been admitted by the M.W. No. 1 while deposing in this Tribunal. Further, M.W. No. 1 has admitted that recruitment/appointment and selection for appointment were being made by the Regional Office by the Regional Manager and formal orders of appointment were being issued by the District Manager. Thus, the aforesaid evidence of M.W. No. 1 read with Ext. 1 and the other exhibited documents leads to the irresistible conclusion that on the basis of Ext. 1 the second party was regularised in service but the District Manager, Sambalpur did not implement the same and in that connection did not issue a formal appointment letter. When appointment letters are to be issued on the basis of an order like Ext. 1 or Ext. 4, the second party having one such order in his favour (Ext. 1) he should not have been refused employment with effect from 1-8-82. Of course, in that connection, the first party pleaded that the second party abandoned the job with effect from 1-8-82. In that connection, the first party has led no evidence whatsoever to show or suggest that the second party abandoned the job. Therefore, that plea of the first party has remained not proved.

12. It is also the admitted position through the evidence of M.W. No. 1 and the appointment letters in favour of several persons vide Exts. 5 to 8 that several persons engaged as casual workers were regularised in service during the relevant period and also subsequent to 1-8-82. Therefore there was availability of work. The second party has categorically stated that he was refused employment with effect from 1-8-82 and it was not a case of abandonment of service. The M.W. No. 1 has also admitted in his evidence that he has issued the

appointment letters, as aforesaid. The totality of the aforesaid facts and circumstances and the evidence as discussed above goes to show that the second party was illegally refused employment with effect from 1-8-82 though as per the practice and procedure prevalent then he should have been regularised in service by issue of a formal appointment letter on the basis of the order, Ext. 1. Thus, the refusal of employment to the second party with effect from 1-8-82 is neither lawful nor justified. The Issue Nos. 2 and 3 are accordingly answered in favour of the workman.

13. Issue No. 4.—The next important issue which is to be considered relates to the relief to which the second party-workman is entitled to. As per the aforesaid finding since refusal of employment to the second party is neither lawful nor justified and when as per the order, Ext. 1 he has been regularised and it is to be supplemented with a formal appointment letter, under such circumstance, the second party be reinstated in service with effect from 1-8-82. The second party has claimed for back wages. Admittedly, he has not worked during the period from 1-8-82 up till now. Therefore, he is not entitled to full back wages. However, for the aforesaid situation, the then District Manager being responsible, thus the first party has to bear the penalty of payment at the rate of half the monthly wage which the workman was getting by the date of refusal of employment and he is entitled to the aforesaid back wages in the aforesaid manner from 1-8-82 till the date of publication of this Award. The first party-management is to issue an appointment letter within a period of two months from the date of publication of this Award failing which the second party is entitled to full back wages from the date of this Award till the date of receipt of the appointment letter. The back wages be paid within the aforesaid stipulated period of two months from the date of publication of the Award.

The Issue No. 4 is disposed of and the Award is passed accordingly.

Dictated and corrected by me.

P. K. TRIPATHY, Presiding Officer

नई दिल्ली, 16 मई, 1995

का. मा. 1644:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एक सी आई के प्रबन्धतंत्र के संज्ञक नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, असम के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-5-95 को प्राप्त हुआ था।

[संख्या एन—22012/239/93-आई आर (सी II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 16th May, 1995

S.O. 1644.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Assam as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on 16-5-1995.

[No. L-22012/239/93-IR (C-II)]

RAJA LAL, Desk Officer

## ANNEXURE

IN THE INDUSTRIAL TRIBUNAL : GUWAHATI :

ASSAM

REFERENCE NO. 1(C) OF 1994

## PRESENT :

Shri J. C. Kalita, Presiding Officer, Industrial Tribunal Guwahati.

In the matter of an Industrial Dispute between :

The Management of F.C.I., Regional Office, Ulubari, Guwahati-7.

And

Shri Doma Sahani and 9 others, Food Corporation of India, Food Storage Depot, Tangla and Bindukuri, Assam.

## AWARD

The Govt. of India by a Notification No. L-22012/239/93-IR(C.II) dated 16-2-94 referred an Industrial Dispute between the Management of Food Corporation of India, Regional Office, G.S. Road, Ulubari, Guwahati-7 and their workmen numbering 10 for adjudication by this Tribunal with copies to both the parties. On receipt of the notification case was registered and notices were issued to the parties to appear before this Tribunal and to file their written statement. All the ten workers filed their written statement jointly. The management also filed their written statement. The issue reads as follows :—

"Whether the action of the Management of Food Corporation of India in terminating the services of 9 (nine) casual workmen of Food Storage Depot, Tangla (as per List enclosed and marked at Annexure-1) w.e.f. 9-2-93 and one casual workmen namely Sri Hari Charan Boro, Food Storage Depot, Bindukuri w.e.f. 16-3-93, without following proper procedure of Industrial Dispute Act, 1947 is justified? If not to what relief the workmen concerned are entitled to?"

The workmen in their joint written statement contended that Sarbashree (1) Doma Sahani (2) Sri Ganga Sahani (3) Sri Biswanath Basfor (4) Prabin Boruah (5) Smt. Phulmati Hazarika (6) Jogen Baro (7) Suku Rabha (8) Babul Das (9) Kaji Ram Rabha were attached to F.S.D. Tangla and Sri Hari Charan Boro was attached to F.S.D., Bindukuri since their appointment, but on all a sudden they were retrenched from the services with effect from 9-2-93 and 16-3-93 respectively. Except Haricharan Boro other workers were retrenched without one month's notice and retrenchment compensation. Though Sri Haricharan Boro was served with one month's notice no retrenchment compensation was paid as required under the Industrial Dispute Act. Apart from that there is clear violation of the circular issued by the Executive Director (personal), Head Quarters, New Delhi vide letter No. FPI(3)/91-Vol-II dated 24-8-92, directing to regularise the workmen working for more than 3 months as on 2-5-86. They are all protected by this circular as they had already worked for more than 3 months as on 2-5-86. They denied the contention of the Management that they had in fact worked only for 19 days in a month. They all worked for the whole month but were paid only the wages for 19 days in a month. They prayed for reinstatement in service without any break of service with full back wages and for regularisation in service.

The Management in their written statement contended that all the workmen figured in this reference were terminated as per the direction of the highest authority under the provision of Section 25(F) of the Industrial Dispute Act 1947. The workmen raised a dispute before the Regional Labour Commissioner, Guwahati but the Conciliation failed due to various factors. The workmen are not entitled to any relief as they did not work for 240 days in a year, they in fact worked for 19 days in a month. Hence the reference is required to be dismissed.

The workmen examined only two witnesses whereas the Management examined only one witness. Both sides pressed few documents into service.

The fate of as many as ten workmen of F.C.I. Regional Office, Guwahati has been involved herein this reference and they are (i) Sri Doma Sahani, (ii) Ganga Sahani, (iii) Biswanath Basphor (iv) Probin Borua (v) Smt. Phulmati Hazarika (vi) Jogen Boro (vii) Suku Rabha (viii) Babul Das (ix) Kahiram Rabha of Tangla F.S.D. and (x) Shri Hari Charan Boro of Bindukuri F.S.D. It is an admitted fact that they all were engaged as casual labourers by the F.C.I. Management. Record reveals that number 1 to 3 were working from 1982. Number 4 and 5 from 1983 and the rest from 1984. Record further revealed that they were all retrenched from service from 1993.

It is not disputed that they were not workmen as defined in the Industrial Dispute Act. Exhibit 1 to 8 are the notices served on the workmen stating their date of retrenchment. Notice of retrenchment shows that their service, were retrenched under Section 25(F) of the Industrial Dispute Act. Section 25(F) says that no workmen employed in any Industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until the workman has been given one month notice in writing indicating the reason for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice, wages for the period of notice, provided that no such notice shall be necessary if the retrenchment is under an agreement.

It is clear from the section itself that such notices are required to be served after completion of one year continuous service in the Industry. Herein this case the retrenched workmen served for more than 10 years continuously. The other requirement is the reason for retrenchment, but the reason is not mentioned in the notice (Exhibit 1 to 8). The order of retrenchment becomes effective after the expiry of the period of notice i.e. one month, and the wages for the period of notice must be paid. This shows that the statutory requirements are not complied with herein this case. Failure to comply with the provision of Section 25(F) of the Act makes the retrenchment invalid. Such invalid retrenchment cannot terminate the relationship of employer and the employees. Because of non-compliance of the mandatory provision of Section 25(F), the submission of the learned counsel for the management that the management is ready to pay compensation to the workmen could not be accepted.

It has been submitted on behalf of the Management that they worked for 19 days in a month though they were paid their wages at the end of the month. Exhibit Ka, Kha, Ga, Gha and Unga are the Bonus Registers showing payment of Bonus every years to these workmen against their wages for 19 days in a month. Counting the period of 240 days comes only where a workman is not in continuous service within the meaning of Clause (i) of Section 25(B) for a period of one year. It must be shown that the workman was employed for a period of not less than 12 calendar months and during those twelve calendar months he worked for not less than 240 days. Herein this case question of twelve months for a completed one year of continuous service does not arise as the workmen worked continuously for more than 10 years. In my opinion, counting of 240 days for a period of one year is relevant if the employment does not exceeds one year, when the employment exceeds one year counting of 240 days in a year is redundant. So, I find the submission of the learned counsel for the Management that the workmen worked for less than 240 days in a year, not applicable.

My attention is drawn to Exhibit 9, a circular issued by the F.C.I. Head Quarter at New Delhi. It is dated on 24-8-92. This was in reference to letter No. FP.1(4)/25-Vol. II dated 4-5-89 issued by the Personnel Manager, regarding regularisation of casual and daily rated workers who had continuously worked for more than 3 months on the cut off date 2-5-86 into the entry level category of III & IV posts. It is clearly mentioned therein that the casual workers/daily rated workers who were engaged on or before



2-9-86 will be retrenched immediately. In the instant case all the casual workers who were retrenched in 1993, worked continuously not for 3 months as on 2-5-86 but for more than 3 years. It is a clear violation of the provisions of circular d. 2-5-86. Their retrenchment after 10 years of continuous service is not only violative of the provision of circular dated 2-5-86 but also in violation of the provision of laws laid down in Industrial Dispute Act, 1947.

Considering the facts and circumstances of this case the submission of the learned counsel for the Management that the Management is ready to pay retrenchment compensation holds no good. "Your services are no more required" as mentioned in the retrenchment notice cannot be a reasonable ground to retrench them with immediate effect. Exhibit 12 is a letter written by the District Manager, Tezpur to the Chief Labour Inspector, F.C.I., Regional Office, Assam Region, Guwahati. The contents of this letter reveal how badly the works of the F.C.I., Tangla were affected for non-engagement of worker's, is a salient point to note that there are sufficient work in F.S.D. It is in the evidence of workers witness that there were vacant posts in category III & IV

staff for their retrenchment which was admitted by the Management before the conciliation. In the light of the above finding, I must say that the order of retrenchment of 10 workmen from their services after more than 10 years of continuous service is bad in law and is not sustainable. As a result it is held that the retrenchment order of Sarbasree Dema Sahani, Kahiram Rebna, Ganga Sahani, Biswanath Bastor, Babul Das, Jogen Boro, Suku Rabha, Prabin Baruah, Smti. Phulmati Hazarika of Tangla F.S.D. and Sri Hari Charan Boro of Bindukuri F.S.D. are not justified and they are to be reinstated in their services with seniority from the date of retrenchment.

As regards back wages it is ordered that the workmen be paid 50 per cent of their back wages from the date of retrenchment till the date of award because of their future employment with all retirement benefits.

I give this AWARD on this 24th day of April, 95 at Guwahati under my hand and seal.

J. C. KALITA, Presiding Officer

#### Annexure - I

Statement showing the Casual Labour's of F.S.D./Tangla and Bindukuri. (Working as casual labour's).

Sl. No.	Name of the Deptt.	Name of Casual Labour's	Period of engagement.
1.	FCI/FSD Tangla, Bindukuri	Sri Doma Sahani	Dec. 82 to bill service the Disposal office 1995.
2.	-do-	Sri Ganga Sahani	Dec. 82 to -do-
3.	-do-	Sri Biswanath Basfor	August, 82 to -do-
4.	-do-	Sri Prabin Baruah	June 83 to -do-
5.	-do-	Sri Phulmati Hazarika	June, 83 to -do-
6.	-do-	Sri Jogen Baro	April, 83 to -do-
7.	-do-	Sri Suku Rabha	April, 84 to -do-
8.	-do-	Sri Babul Das	November, 84 to -do-
9.	-do-	Sri Kohiram Rabha	November, 84 to -do-
10.	-do-	Sri Haricharan Boro	November, 84 to -do-
		FSD Bindukuri.	

नई दिल्ली, 16 मई, 1995

का. आ. 1645:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अंतर्गत, केन्द्रीय सरकार ई. सी. एल. के प्रबन्धन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-5-95 को प्राप्त हुआ था।

[सं. एल-19012/43/85-डी IV (बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 16th May, 1995

S.O. 1645.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of E.C. Ltd. and their workmen, which was received by the Central Government on the 12-5-95.

[No. L-19012/43/85-D.IV (B)]  
RAJA LAL, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 14 of 1986

#### PARTIES :

Employers in relation to the management of Ranipur Colliery of M/s. Eastern Coalfields Limited.

AND

Their Workmen

#### PRESENT :

Mr. Justice K. C. Jagadeb Roy, Presiding Officer.

#### APPEARANCE :

On behalf of Management.—Mr. P. Banerjee, Advocate.

On behalf of Workmen.—None.

STATE : West Bengal.

INDUSTRY : Coal.

#### AWARD

This reference is made by the Central Govt. vide Order No. L-19012(43)/85-D.IV(B) dated 30th January, 1986 in exercise of its power under Section 10(2A) and 10(1)(d) of the Industrial Disputes Act, 1947, which reads as follows:—

"Whether the action of the management of Ranipur Colliery of M/s. E.C. Ltd., P.O. Neutoria, Distt. Purulia, in not referring the workman Shri Nura

Khan, Trammer-cum-Clipman to the Age Determination Committee for determination of age and superannuating him w.e.f. 1-7-1985, was justified. If not, to what relief the workman concerned is entitled ?”

2. Both the parties have filed their written statements in the case. The workmen did not appear in the case since 2-9-1992. By order dated 23-12-1992 the notice had been made sufficient on the workmen but the workmen has not led any evidence in the reference, accordingly can be held to have given up and does not press their demand before the Tribunal.

3. It is not possible for the Tribunal to adjudicate the grievance without any evidence on record and there is no materials for the Tribunal to take a view that the demands of the workmen has been unfairly given up. The management has also not led any evidence in this case. Accordingly I pass the “No Dispute Award” in this reference.

The reference is accordingly disposed of.  
Dated, Calcutta,  
The 11th April, 1995.

K. C. JAGADEB ROY, Presiding Officer

नई दिल्ली, 17 मई, 1995

का. आ. 1646:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. भारत कोकिंग कोल लिमि. की निचि कोलियरी के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-95 को प्राप्त हुआ था।

[संख्या एल 20012/300/90-आई आर (कोल-I)/  
एल 20012/301/90-आई आर (कोल-I)/  
एल 20012/200/90-आई आर (कोल-I)]  
ब्राज मोहन, डेस्क अधिकारी

New Delhi, the 17th May, 1995

S.O. 1646.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Nichitpur Colliery of M/s. B.C.C.L. and their workmen, which was received by the Central Government on 17-5-95.

[No. L-20012/300/90-IR (Coal-I)/  
L-20012/301/90-IR (Coal-I)/  
L-20012/200/90-IR (Coal)]

BRAJ MOHAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT :

Shri D. K. Nayak, Presiding Officer.

In the matter of Industrial Disputes under Section 10(1)

(d) of the I.D. Act., 1947.

Reference No. 77 of 1991

#### PARTIES :

Employers in relation to the management of Nichitpur Colliery of M/s. Bharat Coking Coal Ltd., and their workmen.

(Ministry's Order No. L-20012(300)/90-IR. (Coal-I), dt. 19-3-91).

Reference No. 78 of 1991

#### PARTIES :

Employers in relation to the management of Nichitpur Colliery of M/s. Bharat Coking Coal Ltd., and their workmen.

(Ministry's Order No. L-20012(301)/90-IR (Coal-I) dated 19-3-91).

Reference No. 81 of 1991

#### PARTIES :

Employers in relation to the management of Nichitpur Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

(Ministry's Order No. L-20012(200)/90-IR (Coal-I) dated 19-3-91).

#### APPEARANCES :

On behalf of the workmen.—Shri B. K. Ghose, Member, Executive Committee, Janta Mazdoor Sangh.

On behalf of the employers.—Shri G. Prasad, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 8th May. 1995

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following disputes to this Tribunal for adjudication vide their Orders referred to above.

#### SCHEDULE IN REF. NO. 77 of 1991

“Whether the action of the management of Nichitpur Colliery of M/s. B.C.C.L. (Area. V) in dismissing Sri Baithu Bhuiyan of Nichitpur Colliery vide their letter No. N/960/89 dated 2-5-89 is justified ? If not, to what relief the workman concerned is entitled to ?”

#### SCHEDULE IN REF. NO. 78 OF 1991

“Whether the action of the management of Nichitpur Colliery under Sijua Area of M/s. B.C.C.L. in dismissing Sri Mithu Bduiyan, Loader of Nichitpur Colliery vide their letter No. N/954/89 dated 2-5-89 is justified ? If not, to what relief the workman is entitled to ?”

#### SCHEDULE IN REF. NO. 81 OF 1991

“Whether the action of the management of Nichitpur Colliery under Sijua Area of M/s. B.C.C.L. in dismissing Sri Jharia Bhuian of Nichitpur Colliery vide their letter No. N/959/89 dt. 2-5-89 is justified ? If not, to what relief the workman concerned is entitled to ?”

At the very outset it is pertinent to mention that all these three reference though related to three different persons arose out of same type of allegation and enquiry took place by the same officer as well as evidence in all the enquiries were the same and decision of the Enquiry Officer also more or less identical. The difference what is that the name and particulars of the concerned workmen and for the same three independent references were made. But in all the reference practically the same question of law and facts arise as the entire enquiry proceeding depending upon the evidence of one person and upon the same set of facts stated by him. So to avoid repetition one judgement is passed which will govern all the references and this was also done by my predecessor in office while he disposed off the point whether the enquiry held was fair and proper. By order No. 31 dt. 25-1-94 in case record relating to Ref. 77/91 all the three references were heard together for consideration whether the enquiry was fair and proper and my predecessor in office by order No. 22 dt. 25-2-95 found the domestic enquiry to be fair and proper and in all other two records there is note to that effect. I also consider that all

these three cases should be decided by one judgement and there will be no miscarriage of justice to any of the parties by that.

3. Pursuant to the references made in three different references as mentioned in Case, No. 77/91, 78/91 and 81/91 the following persons are involved they are Baithu Bhuiyan, Mithu Bhuiyan and Jharia Bhuiyan all of Nitchitpur Colliery. On careful scrutiny of the references mentioned above it will appear that in all three cases the question is whether the action of the management of Nitchitpur Colliery under Sijua Area of M/s. B.C.C.-L- in dismissing the concerned workman by different letter No. 2-5-89 is justified. If not, to what relief workmen are entitled to?

4. In all the cases practically the W.S. filed by the individual workman run in the same tune.

5. In case No. 77/91 it is the case of the concerned workman that he joined in March, 1981 at Cendra Bansjora Colliery as Miner/Loader after satisfying the authority concerned as to his identity and in 1984 he was transferred to Nitchitpur Colliery and worked therein the same post still his stoppage from 22-9-87 alleging that he was working by making impersonation in place of some other person under Office Order No. N/1653/87 dt. 22-9-87 from the Superintendent, Nitchitpur Colliery. But it is alleged by the concerned workman that the allegation is false and baseless and thereafter a domestic enquiry took place in which the concerned workman was found to be guilty of the alleged charge and he was dismissed.

6. In the W.S. of the management it is stated that actually the concerned workman made a foul play by impersonating another person and he was asked to produce photograph being certified by the competent authority about his genuineness but he failed. Again he was asked to do so which he did not comply nor he produced any certificate in proof of his genuineness and thereafter an enquiry proceeding was started and in a domestic enquiry he was found to be guilty and rightly he was dismissed.

7. In case No. 78/91 the same charge was levelled against the concerned workman Mithu Bhuiya by letter No. N/954/89 dt. 2-5-89 and found him to be guilty of the charge and he was dismissed and the reference is whether that action is justified.

8. In the said case also W.S. was filed by the workmen stating inter alia that he joined as Miner/loader at Sendra Bansjora colliery in March, 1981 and the said appointment was given being satisfied from the end of the competent authority as to his identity and he was then transferred to Nitchitpur Colliery in 1984 in the same post and he worked there till 22-9-87 and thereafter a false allegation of impersonation in place of some other person under Office Order No. N/1653/87 dt. 22-9-87 was served upon him but without holding the enquiry properly and arbitrarily he was dismissed arbitrarily. On the other hand the management has stated in their W.S. cum-rejoinder that he was given chance by letter dated 28-8-87 but he failed again he was served with another letter dt. 5-9-87 and again he failed and till the date of enquiry he did not submit any proof about his identification and thereafter holding proper enquiry he was dismissed. It is also stated that a criminal case is started against his concerned workman.

9. In case No. 88/91 practically the same fact is mentioned as it is stated earlier. In the instant case the concerned workman is Jharia Bhuiyan who was appointed as Miner/Loader in March, 1981 after satisfying the competent authority about his identity and on his transfer in the year 1984 he had worked there till 22-9-87 when he was dismissed on the ground of impersonation and according to him the enquiry was not based on materials and the order of dismissal is arbitrary and illegal.

10. The management in its reply stated that before starting domestic enquiry he was given 7 days time by letter dated 28-8-87 and then again a letter was issued dated 5-9-87 to prove the genuineness of his identification but he failed and then the domestic enquiry was started where he was found guilty of impersonation and thereby he was dismissed.

11. In all the three cases the dismissal order was passed for the allegation of violation of clause 17(i) (o) and (q) of the Model Standing Orders applicable to the Coal Mining Establishment for not giving particular correctly.

12. I have carefully perused the enquiry report and the witnesses examined in three different enquiry proceedings in which the workmen concerned took part. To make the matter more short it can be said that practically three different enquiry reports are in the same tune only changing the names of the workmen and their residence etc. In general it may be mentioned that from the side of the management in the domestic enquiry pursuant to the chargesheet issued against many persons including three concerned workmen only one witness deposed whose name is Birendra Sharma. In the enquiry proceeding relating to Ref. No. 77/91 it is stated by Birendra Sharma that as per report of the Officer, Incharge, Loyabad P.S. it came to his knowledge that there is no person name Baithu Bhuiyan residing at Haridih village and after seeing the photo of Baithu Bhuiya the people told the police that the said photo is of Lalan Prasad son of Bhuneshwar Prasad village Gidhara and the photo is not of Baithu Bhuiya. In the enquiry proceeding relating to Ref. No. 78 of 191 the same person had stated that as per report of the Officer Incharge Loyabad P.S. there is no person named Mithu Bhuiya in at village Hondih and after seeing the photo of said Mithu Bhuiyan the people of that locality had told of the Police that the photo is of Rama Shankar Dusadh son of Rambali Dusadh vill. Bibipur, P.S. Kariunddin. Dist. Gajipur. In Ref. No. 81/91 the report of the enquiry proceeding reveals that the said Birendra Sharma stated that he visited Loyabad Police wherein the Officer Incharge told him that he had made enquiries and found that no person named Jharia Bhuiyan is residing at Mahupur village and it was stated by the Police seeing the photograph of Jharia Bhuiyan the people had told that the photo was not of Jharia Bhuiyan but of Dharampal son of Ram Swarup Ram of village Goap pur P.S. Shahiyabad Dist. Gajipur.

13. It is needless to mention that all these three enquiry reports revealed that the enquiry entirely was conducted on the basis of the hear say evidence of one person Birendra Sharma.

14. I cannot but comment that in enquiry proceeding I find any such photograph of any workman concerned or any report from the Officer Incharge Loyabad Police Station as stated by the witness Birendra Sharma. When the management started proceeding for the purposes of enquiry it is expected that some lawful procedures to be adopted for unearthing the truth. I do not find any material in which capacity the said Birendra Sharma visited Loyabad P.S. and if any enquiry was made by Loyabad P.S. pursuant to the enquiry held as against the said three workmen then what prevented the Officer incharge concerned to submit a report in writing or what debarred the management concerned to obtain a written report from the Officer in charge concerned. It is very curious that the Enquiry Officer accepted the statement of Birendra Sharma who had deposed that just after seeing that photograph without seeing the person concerned the villagers told that the photographs are not of such persons but of different persons. If the statements were recorded by the Officer Incharge concerned from the local people and if any enquiry was also held thereafter from the persons whose names were revealed to be the alleged actual persons then I could find basis of the said statement. Furthermore, I fail to understand why the management concerned has not produced any document to establish the fact that Lalan Prasad, Ramashankar Dusadh and Dharampal, ever used to work in Sandra Bansjora Colliery in March, 1981. Another point which speaks a volume is that how the local people came to learn after seeing any photograph that it was not of Baithu Bhuiyan, Mithu Bhuiyan, and Jharia Bhuiyan but of other persons out of which two are of U.P. If the said persons are co-villagers of the concerned workmen then they can say only that these are not the photographs of the said persons. But how they can tell that the said photographs are of the persons who appear to be the residents of different places.

15. Moreover, if those photographs were of other persons then why the statement from those persons were not taken when their addresses were traced out. Besides that in these

proceedings no photographs have been exhibited to give a chance to the Tribunal to compare and to come a finding that those are of not the concerned workmen but are of different persons. Furthermore it is highly improbable that the concerned workmen will make over the photograph of different persons for verification instead of their own photograph and actually as it did not happen the management had failed to produce the said photographs.

16. From the enquiry report as well as from the record of enquiry proceeding all the references it appears that the Police strated criminal case for false impersonation as against the concerned workmen but I do not find any paper in support of such fact which could have been produced by the management as those are Court papers. The concerned officer incharge has also not been examined to state that he actually conducted the verification and found the charge of impersonation to be true.

17. Therefore I am constrained to hold that the enquiries were held by the Enquiry Officer in all the three enquiry proceedings in most perfunctory manner and arbitrarily. Also without basing upon any cogent material a report has been submitted for the reasons best known to him relying upon the statement of only one person who has no direct knowledge. The learned advocate for the management submitted in course of argument that in a domestic enquiry hear say evidence is admissible in evidence though generally hear-say evidence is not admissible under the purview of Evidence Act. Even if it is accepted for the sake of argument I cannot but say that this argument cannot be accepted in view of the lacunae already mentioned above. On the other hand I accept the argument of Shri Ghosh representing the workmen in three different reference cases that actually without having no material whatsoever simply relying upon some hear-say statement the report was submitted holding the charge levelled against the concerned workmen to be established.

18. I have given my anxious consideration upon the facts and circumstances revealed from the materials of the enquiry proceeding which is the basis of determination of these references and I am of the opinion that upon these materials it is unsafe to hold a person guilty of impersonation and leading to dismissal from the service as done by the management.

19. In view of the discussions made above it is held that all the references should be answered in favour of the workmen and it is held that the action of the management of Nichitpur Colliery of M/s. B.C.C.L. against Baihu Bhuiya, Methu Bhuiya and Jhari Bhuiya dismissing them from their service by letters No. N/960/89 dated 2nd May, 1989, N/954/89 dated 2nd May, 1989 and N/960/89 dated 2nd May, 1989 is not justified and they are entitled to be reinstated and also they are entitled to get back wages from the date of dismissal till the date of reinstatement with the benefit of enhancement of pay and allowances of the same post if any along with other consequential benefits of the post to which they were attached to and also they would be given promotion in their services if they were entitled to get so in the meantime. The aforesaid reliefs be granted in favour of the concerned workmen individually. This is my Award and this award will take effect within one month from the date of its publication. This award relates to Ref. No. 77/91, 78/91 and 81/91 as three references have been adjudicated analogously. Let the original award be kept in case No. 77/91 and two copies of the said awards be tagged in two other different references for future reference.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 17 मई, 1995

का. आ. 1647:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार टेलीग्राफ के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अन्तर्गण में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, जबलपुर

के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-95 को प्राप्त हुआ था।

[संख्या एल-40012/213/93-आई आर (डीयू)]

के. बी. बी. उपाधी, डेस्क अधिकारी

New Delhi, the 17th May, 1995

S.O. 1647.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure. in the Industrial dispute between the employers in relation to the management of Telegraph and their workmen, which was received by the Central Government on 12-5-95.

INo. L-40012/213/93-IR (DU)

K. V. B. UNNY, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT.

JABALPUR (MP)

CASE REF. NO. CGIT/IC(R)/(149)/1992

BETWEEN

Shri Fakir Chand Chourey (Shri Keshav Das Chourey) R/o Village : Tara P.O. Lohariva, District Hoshangabad (MP)-461001.

AND

The General Manager (Telegraph), C/o Divisional Engineer (Telegraph), Khandwa Division, Khandwa MP) and the Sub-Divisional Officer (Telegraph), Itarsi, Distt. Hoshangabad (MP)-461111.

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri Keshav Das.

For Management : Shri K. G. Bang.

INDUSTRY : Telegraph DISTRICT : Hoshangabad (MP)

AWARD

Dated : May 1st 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification no. L-40012/213/91-IR (DU) dated 29-6-1992 for adjudication of the following industrial dispute :

#### SCHEDULE

"Whether the action of the management of SDO (T) Itarsi in terminating the services of Shri Fakir Chand Chourey w.e.f. October, 1988 is justified? If not, what relief he is entitled to?"

2. From the perusal of the reference order, it appears that the matter has been referred for adjudication in respect of the termination of 'Shri Fakir Chand Chourey' whereas Shri Keshav Das Chourey S/o Shri Fakir Chand Chourey has been made party to this case. Shri Keshav Das Chourey is the workman concerned whose services have been terminated and Fakir Chand Chourey whose name is mentioned in the Schedule to the reference order is the father of Shri Keshav Das Chourey.

3. However, notice was sent to Shri Keshav Das Chourey to file the statement of claim. Workman and the management have filed their respective statement of claim.

4. The case of Keshav Das Chourey that he was employed as casual labour by the S.D.O. (Telegraph) Khandwa Division, Itarsi and he worked continuously since March, 1993 to October, 1998. He fulfils the requirement of temporary status as required under the I.D. Act. His services have wrongly been terminated. He is entitled to be reinstated with all back wages.

5. The case of the management is that Shri Fakir Chand Chourey was never in the employment of the SDD (Telegraph). He is not entitled to any relief.

6. Fakir Chand Chourey has not filed statement of claim.

Even if it is taken that the reference is with respect to the termination of Shri Keshav Das Chourey S/o Shri Fakir Chand Chourey, Keshav Das Chourey except filing the statement has also not adduced evidence. Both the parties improve his case by documentary or oral evidence. Management has also not adduced evidence. Both the parties pursuing their case, no dispute award is passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer.

नई दिल्ली, 17 मई, 1995

का. आ. 1648:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकोम जिला मैनेजर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण बम्बई नं. 2 के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-5-95 को प्राप्त हुआ था।

[संख्या एल बी-40012/59/93-आई आर (डी यू)]  
के. वी. बी. उष्णी, डेस्क अधिकारी

New Delhi, the 17th May, 1995

S.O. 1648.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay No. 2 as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom District and their workmen, which was received by the Central Government on 16-5-95

[No. L-40012/59/93-IR(DU)]

K. V. B. UNNY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT:

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/32 of 1994

Employers in relation to the Management of Telecom District Manager, Ahmednagar,

AND

Their Workmen.

APPEARANCES:

For the Employers: Mr. K. S. A. Padmanabhan, Representative.

For the Workmen: Shri A. N. Kulkarni, Advocate.

Bombay, dated 21st April, 1995

#### AWARD

The Government of India, Ministry of Labour, New Delhi by their letter No. L-40012/59/93-IR(DU) dated 2-8-1994 has referred to the following industrial dispute for adjudication to this Tribunal in the following terms:

#### SCHEDULE

"Whether the action of the management of Telecom District Manager, Ahmednagar in terminating the services of Shri Prakash B. Grime, Casual Mazdoor is

proper, legal and justified? If not, to what relief the workman is entitled to?

2. The workman files his statement of claim at Exh. 4. He contended that he was appointed by the management i.e. party No. 1 as a casual mazdoor w.e.f. 8-4-85. He was in continuous service of the Telecom District Manager, Ahmednagar till he was illegally terminated from service by the management on 30-6-87.

3. The workman contended that he was born on June 1, 1967 and at present his age is 27 years. Now he is debarred from getting employment with the Government. He contended that from 1-4-85 to 31-3-86 he worked 254 days and from 1-4-86 to 30-6-87 he worked for 268 days with the management.

4. The workman contended that he is working as a Security Guard through Ideal Security Services and the job is purely temporary. He pleaded that the termination notice is illegal, and he was not given 30 days notice. He was also not given retrenchment compensation. He asserted that he is also not given any compensation as required to be given under law. He submitted that under such circumstances he is entitled to have wages from 1-7-87 till reinstatement with continuity in service.

5. The Sub-Divisional Engineer HRD, Telecom District Manager, Ahmednagar had filed a statement which is treated as written statement at exh. 2. It is informed that the workman Grime was working in Ahmednagar Telecom District under SO. Ahmednagar (now SDOT Shrigonda) from 9-4-85 till June 1987. It is averred that as per the instructions there their Directorate, New Delhi vide letter 30-3-85 addressed to all Heads of Circles the ban was imposed on fresh recruitment and employment of casual labour in the Department further the instructions were issued by DOT regarding termination of services of casual mazdoors employed after 30-3-85 by letter dated 23-6-87.

6. It is averred that V. B. Grime was given notice for one month above termination of his service as Casual Mazdoor w.e.f. 30-6-81 vide letter dated 21-5-87 and the said notice was given on the ground that he was engaged for work after 30-3-85. Now after a lapse of 4 years the workman is represented by Labour Commissioner, Pune for reinstatement in service which is barred by limitations. It is submitted that Grime is employed by Ideal Securities services and gets Rs. 1200 p.m. He is entitled to relief as claimed. It is submitted that the action of the management is fully justified.

7. The issues that fall for my consideration and my findings thereon are as follows —

#### Issues

#### Findings

- |  |   |
|--|---|
| 1. Whether the action of the management of Telecom District Manager, Ahmednagar in terminating the services of Shri Prakash B. Grime, Casual Mazdoor is proper, legal and justified? | NO  |
| 2. If not, to what relief the workman is entitled to what relief the workman is entitled to?   | He is entitled to reinstatement without any back wages. |

#### REASONS

8. At exh. 6 purhis is filed by the workman that he does not want to lead any oral evidence in the matter. The same purhis is endorsed by the management to the fact that they also do not want to lead any oral evidence in the matter.

9. From the written statement exh. 2 it is crystal clear that from 9-4-85 till June 1987 the workman was engaged with SDOT, Ahmednagar. In the statement of claim the workman had given his total working days as 254 days between 1-4-85 to 31-3-86 and 268 days between 1-4-86 to 30-6-87. In view of section 21 of the Industrial Disputes Act as the workman has worked for more than 240 days in a year he is to be treated as in continuous service. This is not in dispute.

10. It is not in dispute that the workman was given only the notice of termination and he was not given any retrenchment compensation of section 25(F) of the Industrial Disputes Act of 1947 with the procedure of retrenchment. When the workman is in continuous service then such a workman should not be retrenched unless he is given one month's notice in writing indicating (i) reasons for the retrenchment and the period of notice as expired, wages for the notice period (ii). The workman has been paid at the time of retrenchment the compensation which was to be equivalent 15 days average pay (for every completed year of continuous service or any part thereof in excess of six months) and (iii) notice in the prescribed manner is served on the appropriate government (such authority as may be specified by the Appropriate Govt. It is very clear that now all these sorts of incidents and taken place in respect of the workman. Obviously his termination is illegal.

11. It may be seen that he was terminated from service in the month of June 1987 and then he kept idle for about 4 months then he made a representation to the Labour Commissioner on September 1991. This itself goes to show that he was employed for that period partially and did not think it fit to get the employment. It is also admitted position that from 10-4-91 he is working as Security Guard and as this is so he is not entitled to have back wages. But as he is terminated illegally he has to be treated in the service. In the result, I record my findings on the issues accordingly and pass the following order :

#### ORDER

1. The action of the management of Telecom District Manager, Ahmednagar in terminating the services of Shri Prakash B. Girme, Casual Mazdoor is not proper, legal and justified.
2. The management is directed to appoint the workman Girme as casual Mazdoor with immediate effect.
3. He i.e. the workman Girme has to be treated as in continuous service for all other purposes.
4. The workman Girme is not entitled to any back wages.
5. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 17 मई, 1995

का. आ. 1649:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डीआरएम, साउथ ईस्टर्न रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-95 को प्राप्त हुआ था।

[संख्या एल—41012/120/91—आई आर (डी यू)]  
के. वी. बी. उण्णी, डेस्क अधिकारी

New Delhi, the 17th May, 1995

S.O. 1649.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of DRM, South Eastern Railway and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-41012/120/91-IR (DU)]

K. V. B. Unny, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
Case Ref. No. CGIT/LC(R)(200)/1992

#### BETWEEN

Shri Seetharam S/o Shri Neelu, Ex-CPC Gangman, R/o Anwarabhata, Dantewada, District Bastar (MP)-494449.

#### AND

The Divisional Railway Manager, South Eastern Railway Waltair (A.P.)-530004.

#### PRESIDED IN :

By Shri Arvind Kumar Awasthy.

For Workman—None.

For Management—Shri M. Laxman Rao.

INDUSTRY : P&T

DISTRICT : Bastar (MP)

#### AWARD

Dated, the 28th April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-41012/120/91-JR (DU) dated 25-9-1992, for adjudication of the following industrial dispute :

#### SCHEDULE

"Whether the action of the management of DRM, South Eastern Railway, Waltair (A.P.) in terminating the services of Shri Seetharam is justified ? If not what relief he is entitled to ?"

2. Workman has neither filed the statement of claim nor appeared inspite of the repeated notice sent to him. It appears that he is not interested in pursuing his case. No dispute award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 17 मई, 1995

D.II (B) dated 2-5-1990, for adjudication of the following industrial dispute :-

का. आ. 1650.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकम्युनिकेशन के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-95 को प्राप्त हुआ था।

[संख्या एल—40012/117/89-डी-2 (बी)]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 17th May, 1995

S.O. 1650.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecommunication and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-40012/117/89-D.II (B)]

K. V. B. UNNY, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(123)/1990

## BETWEEN

Shri Ramdayal S/o Mahadev Prasad, Gram and Post Dahua, Tah. Multai, District Betul (MP).

## AND

The Director Telecom, Railway Electrification Project.  
E-3/15. Area Colony, Bhopal (MP)-462016.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—None.

For Management—Shri B. Da'Silva, Advocate.

INDUSTRY : Rly. Elect. DISTRICT : Betul (MP)

## AWARD

Dated, the 1st May, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/117/89-

## SCHEDULE

"Whether the action of the Management of Director, Telecommunication, Railway Electrification, Bhopal in not providing employment to Shri Ramdayal S/o Mahadev Prasad w.e.f. 1-4-88 is justified? If not, to what relief the workman is entitled to?"

2. The reference was received on 14-5-1990. Thereafter as many as 16 dates were fixed for filing the statement of claim etc. but the workman did not file his statement of claim etc. No explanation whatsoever men's prayer to close the case, as the workman is not turning up, is just and proper. Case is closed and no dispute award is hereby passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 17 मई, 1995

का. आ. 1651.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रेलवे मेल सर्विस के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-95 को प्राप्त हुआ था।

[संख्या एल—40012/32/90-आई आर (डी यू)]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 17th May, 1995

S.O. 1651.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of R.M.S. and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-40012/32/90-IR (DU)]

K. V. B. UNNY, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(226)/1990

## BETWEEN

Shri Gokul Prasad, Nished (Ex-E. D. Mail Man, R.M.S Raigarh, R/o Kewada Badi, Kewatpara. Raigarh (MP)-496001.

## AND

The Sub-Divisional Inspector, Railway Mail Service.  
R. Division Bilaspur (MP)-495004.

men, which was received by the Central Government on 17-5-1995.

[No. L-41012/91/89-D.II (B)]

K. V. B UNNY, Desk Officer

## PRESIDED IN :

By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For Workman—Shri R. D. Arya, Advocate.

For Management—Shri B. Da'Silva, Advocate.

INDUSTRY : RMS

DISTRICT : Raigarh (MP)

## AWARD

Dated, the 28th April, 1995

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. L-40012/32/90-IR (DU) dated 20-11-1990, for adjudication of the following industrial dispute :

## SCHEDULE

"Whether the action of the Sub-Divisional Inspector, R.M.S. Bilaspur in removing from service Shri Gokul Prasad, E.D., M.M., Raigarh vide his order dated 28-7-89 is justified. If not, to what relief the concerned workman is entitled to ?"

2. This case was at the stage of evidence which was fixed on 20-12-1994. Thereafter subsequent dates for evidence i.e. 21-2-1995 and 31-3-1995 were fixed, but on these dates workman remained absent. It appears that the workman is not interested in pursuing his case. No dispute award is hereby passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 17 मई, 1995

का. आ. 1652.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पी डब्ल्यू आई वेस्टर्न रेलवे के प्रबन्धतल के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-95 को प्राप्त हुआ था।

[संख्या एल-41012/91/89-डी-2 (बी)]

के. वी. वी. उन्नी, डेस्क अधिकारी

New Delhi, the 17th May, 1995

S.O. 1652.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of PW Western Railway and their work-

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
Case Ref. No. CGIT/LC(R)(150)/1990

## BETWEEN

Shri Manoharlal Supa C/o Smt. Savita Jokala, Women Gangman C/o P.W.I., Western Railway, Sujalpur, District Shajapur-465001 (MP).

## AND

The Asstt. Engineer, Western Railway, Ujjain-456001 and the Chief P.W.I., Western Railway, Sehore (MP)-466001.

## PRESIDED IN :

By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For Workman—None.

For Management—Shri Parmar.

INDUSTRY : Railways

DISTRICT : Sehore (MP)

## AWARD

Dated, the 1st May, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-41012/91/89-D.II (B) dated 31-5-1990, for adjudication of the following industrial dispute :

## SCHEDULE

"Whether the termination of Shri Mohanlal Supa, Casual Labour by the management of Chief P.W.I. Western Railway, Sehore is justified ? If not, to what relief the workman is entitled for ?"

2. Parties have filed their respective statement of claim. Workman has filed certain documents also. No rejoinder filed by the parties.

3. Admitted facts of the case are that the workman, Mohanlal, was employed as Jamadar with effect from 5-10-1979 under P.W.I. Rajkot and he was declared unfit for B-1 scale after medical examination of his eyes by the Medical Officer vide Medical Certificate dated 21-1-86. Therefore his services were terminated by the management.

4. On 14-4-1992, 11-8-1992, 28-8-1992, 25-2-1995 neither the workman nor anybody on his behalf appeared before the Court. On 19-4-1995 none appeared for workman and management prayed that since the workman is not turning up case be closed. Management's prayer to close the case is just and proper. Since the workman does not appear to be interested in pursuing his claim, no dispute award is hereby passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer



नई दिल्ली, 17 मई, 1995

89-D.II (B) dated 2-5-1990, for adjudication of the following industrial dispute :—

## SCHEDULE

का. आ. 1653:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकोम के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-95 को प्राप्त हुआ था।

[संख्या एल—40012/119/89-डी-2 ( बी )]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 17th May, 1995

S.O. 1653.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-40012/119/89-D.II (B)]

K. V. B. UNNY, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(125)/1990

## BETWEEN

Shri Bhaiyalal S/o Ramji Verma, Gram and Post Barked, Tahsil Multai, District Betul (MP).

## AND

The Director, Telecom Railway Electrification Project E-3/15, Area Colony, Jabalpur (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—None.

For Management—Shri B. Da'Silva, Advocate.

INDUSTRY : Rly. Elect.

DISTRICT : Bhopal (MP)

## AWARD

Dated, the 1st May, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/119/

"Whether the action of the management of the Director, Telecom Railway Electrification Project, Bhopal in not providing employment to Shri Bhaiyalal S/o Ramji Verma w.e.f. 31-8-88 is justified? If not, to what relief the workman is entitled for?"

2. Workman filed his statement of claim on 16-5-1990 through his Counsel. He appeared in person on 16-11-1994 and filed certain documents. In his presence on 16-11-1994 the case was fixed for evidence on 13-12-1994, but he did not appear on this date or subsequent dated i.e. 8-2-1995 and 18-4-1995 to adduced his evidence and prove the documents. It appears that he is not interested in pursuing the case. I have, therefore, no alternative but to pass a no dispute award. No dispute award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 17 मई, 1995

का. आ. 1654:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकोम फैक्टरी के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-95 प्रकाशित हुआ था।

[संख्या एल 40012/50/87 डी II (बी)]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 17th May, 1995

S.O. 1654.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom Factory and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-40012/50/87-D.II (B)]

K. V. B. UNNY, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
Case Ref. No. CGIT/LC(R)(106)/1988

## BETWEEN

Shri Premlal, T. No. 3540, 65/10, Gangasagar, Ranipur, Jabalpur (M.P.)

## AND

The General Manager, Telecom Factory, Jabalpur (MP).

## PRESIDED IN :

By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For workman—Shri R. Menon, Advocate.

For management—Shri S. S. Jha, Advocate.

INDUSTRY : Telecom

DISTRICT : Jabalpur (MP)

## AWARD

Dated, the 27th April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/50/87-D.II (B) dated 30-9-1987, for adjudication of the following industrial dispute :—

## SCHEDULE

"Whether the action of the management of Telecom Factory, Jabalpur (M.P.) in dismissing Shri Premlal Fitter Grade-2, Microwave Tower Shop from service w.e.f. 31-1-87 vide order dated 30-1-87 is justified? If not, to what relief the workman concerned is entitled?"

2. Admitted facts of the case are that the workman, Premlal, was working as Fitter, Grade II, in Microwave Tower Shop, Telecom Factory, Jabalpur and that the domestic enquiry was conducted against him by the Enquiry Officer, Shri K. S. Nodkar and the Enquiry Officer submitted his findings on 10-4-1986 and thereafter vide order dated 30-1-1987 the services of the workman was terminated. It is edited that the workman submitted appeal dated 3-3-87 against the punishment and his appeal was rejected.

3. The case of the management is that on 25-4-84 at about 12 p.m. workman was caught red handed at Gate No. 4 of the Telecom Factory, Jabalpur, while he was taking out welding rods of the factory which were hidden in the dry grass on the carrier of Cycle. Management has alleged that the Security Staff in presence of the witnesses prepared a seizure memo and took the signature of the workman; that after the domestic enquiry the workman was dismissed from service with effect from 30-1-1987.

4. Case of the workman is that the domestic enquiry was held against the principles of natural justice and there was undue delay of two years in submitting the report by the Enquiry Officer. It is further alleged by the workman that the Enquiry Officer did not consider the material contradiction in the statement of management's witnesses, Lalji and D. P. Shukla and the findings of the Enquiry Officer are mechanical and perverse. It is further alleged by the workman that the Disciplinary Authority has failed to consider the unblemished service of 16 years of the workman and the punishment of dismissal is harsh and disproportionate. Workman has claimed reinstatement with back wages.

5. Following are the issues framed in the case and my findings thereon :—

## ISSUES

1. Whether the Enquiry is just, proper and legal
2. Whether the management is entitled to lend evidence before this Tribunal?
3. Whether the charges of misconduct are proved on the facts of the case?

4. Whether the punishment awarded is proper and legal?

5. Relief and costs.

6. Issue No. 1 and 2.—It was held by my learned predecessor on 7-5-1991 that the domestic enquiry was just and fair and as such management is not entitled to lead any evidence. The case was posted vide order dated 7-6-91 for arguments on the point of perversity of findings quantum of punishment and relief i.e. Issue No. 3, 4 and 5. Consequently, Issue No. 1 and 2 are answered in affirmative. Now the Issue No. 3, 4 and 5 will be considered as per order dated 7-6-91.

7. Issue No. 3.—From the perusal of the seizure memo (Annexure 2) it is clear that 16 welding rods were seized from the possession of Premlal by the Security Staff. This seizure memo bears the signatures of the accused, Premlal, even accused, Premlal, in his statement has admitted on 25-5-84 that he was in possession of the welding rods and he was carrying it outside the factory. Witnesses produced by the workman, Kishori Lal Choudhary, has also admitted that on 25-5-84 at about 12. He gave his cycle to the workman, Premlal. The cycle was caught red handed on the Gate of the factory. In view of the clear admission by the workman, Premlal, his statement and also looking to the seizure memo bearing the signatures of Premlal. I am of the opinion that the learned Enquiry Officer has rightly believed the statement of Lalji Chowkidar to the effect that Premlal was caught red handed after committing the theft of the property of the factory i.e. 16 welding rods. The findings of the learned Enquiry Officer is fully in accordance with the evidence recorded during the domestic enquiry. Issue is decided in favour of the management.

8. Issue No. 4.—Offence of theft by an employee is not only punishable with imprisonment but it is such a grave misconduct that it erodes the confidence of the employer and the only proper punishment for such a delinquent employee is certainly removal from service. However, it is held in case of Ram Avtar Sharma and Ors. Vs. State of Haryana (1985-JI-LLJ SC. 187) that the Tribunal has the power to interfere with such findings and the quantum of punishment but these powers should be exercised in case of the gross malafide in the findings or where the punishment is apparently disproportionate.

9. Prayer of the workman that he deserves leniency in punishment on account of unblemished record of 16 years service cannot be taken into consideration in such theft cases because firstly it is difficult to detect the offence of theft by the employee and secondly it tends to shatter the required confidence in the employee which is necessary for the smooth management. Consequently, punishment is held proper and Issue No. 4 is held in favour of the management.

10. Issue No. 5.—In view of the aforesaid findings on the above issues, workman is not entitled for any relief.

11. Consequently, action of the management of Telecom Factory, Jabalpur in dismissing Shri Premlal Fitter Gr. 2, Microwave Tower Shop from service w.e.f. 31-1-87 is justified. Workman is not entitled to any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 17, मई 1995

का. आ. 1655—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलीकोम के फैक्टरी प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनु ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-1995 को प्राप्त हुआ था।

[सं. एल-40012/34/85 डी II (की)]

के. बी. डी. उन्नी, ईस्क अधिकारी

New Delhi, the 17th May, 1995

S.O. 1655.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of elecom Factory and their workmen, which was received by the Central Government on 17-5-95.

[No. L-40012/34/85-D.II(B)]

K. V. B. UNNY, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)  
Case Ref. No. CGIT/LC(R)(120)/1988

#### BETWEEN

Shri J. N. Singh C/o Shri K. V. Barhate, Advocate, 73, Vivekanand Nagar, Lakimpur, Jabalpur (MP).  
Shri J. N. Singh, Ex-Fitter-I, Grade-I, Ex-Assembly Shop C/o New Central Lodge, Malviya Chowk, Jabalpur (MP).

#### AND

The General Manager, Telecom Factory, Jabalpur (MP)  
APPEARANCES :

For Workman : Shri R. K. Gupta, Advocate.

For Management : Shri R. Menon, Advocate.

INDUSTRY : Telecom. DISTRICT : Jabalpur (MP)

#### AWARD

Dated, the 27th April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/34/85-D.II(B), dated 17th November, 1988, for adjudication of the following industrial dispute :—

#### SCHEDULE

"Whether the action of the management of Telecom Factory, Jabalpur in retiring Shri J. N. Singh, T. No. 14, from service w.e.f. 31-7-85 treating his date of birth as 18-7-25 and not 20-10-29, as claimed by that workman is justified? If not, to what relief he is entitled to?"

2. Admitted facts of the case are that Shri J. N. Singh was appointed as a Learner in the Telecom Factory, Jabalpur, with effect from 25-1-1944.

3. The case of the workman is that his actual date of birth is 20-10-1929; that the workman was informed vide letter dated 12-12-1984 by the Assistant Manager (EQ) that the workman attained the age of 60 years on 18-7-1985; that the representation of the workman was rejected. The workman has prayed for his reinstatement with full back wages and consequential benefits.

4. The case of the management is that in the service record of the year 1984 of the workman, his date of birth was recorded and even after notice dated 17-7-1952 on the subject of determination of age of workers, the workman did not produce any document and the Board constituted affirmed his date of birth as 18-7-25 as recorded in the service book; that the workman during the service period never protested about his date of birth and his present claim of date of birth as 20-10-1929 is an after thought and to take undue advantage.

5. The terms of the reference was the issue in the case.

6. The workman examined himself and Agni Prasad and filed the School Leaving Certificate and Transfer Certificate, marked Ex. W/1 and Ex. W/2; the management examined S. S. Vyas and relied on the documents Ex. M/1 to Ex. M/4 to prove the admission of the workman regarding his date of birth.

7. Workman, Jagdish Narayan Singh, has admitted in para 7 of his cross-examination that he does not remember the

date of his admission in his School and the document regarding his date of birth was not filed at the time of his admission. J. N. Singh has further admitted that at the time he was taken in service his age was about 15 years.

8. The workman has filed the copy of the admission register of the School and the photo copy of the Transfer Certificate marked respectively Ex. W/1 and Ex. W/2. These documents, by the workman, was submitted in the year 1984. The workman has not given any explanation of not producing the documents at the time of the notice date 17-7-52 which was given to the workman by the Committee formed for determination of the age of workers.

9. Management witness, S. S. Vyas, has stated that the workman, J. N. Singh, has retired from service on 31-7-85 on attaining the age of superannuation and he never placed the documents regarding his date of birth recorded in the School. S. S. Vyas has proved Form-3 application, marked Ex. M/2 and the documents submitted at the time of retirement by the workman, marked Ex. M/3. Ex. M/3 is an application for the final withdrawal from GPF filed by the workman on 1-6-1978. In Ex. M/3, the workman has admitted that the balance service of his retirement was approximately 5 years. Thus from the admission made in writing by the workman by Ex. M/3, it is clear that the date of birth of the workman was not 20-10-1929. Similarly Ex. M/2 is the details of the family submitted by the workman to the management on 21-5-73 and Ex. M/2 which bears the signature of the workman clearly goes to show that the date of birth was in the year 1925.

10. Apart from these two valuable documents bearing the admission of the workman that his date of birth was not 20-10-1929, there is another important document marked Ex. M/4 regarding the date of birth of the workman which is signed by the workman. In Ex. M/4 the date of birth of the workman is mentioned as 18-7-1925. The date of birth of the workman shown as 18-7-1925 is on the basis of the medical report. But it is note worthy that Ex. M/4 was prepared more than 40 years back on 18-11-52 and no objection was raised by the workman either at the time of the execution of Ex. M/4 or thereafter.

11. It is observed in the case of Secretary and Commissioner, Home Department Vs. R. Kirubakaran (AIR 1993 SC p. 2647) that unless a clear case on the basis of materials which can be held to be conclusive in nature, is made out by the respondent, the Court or the Tribunal should not issue a direction, on the basis of materials which make such claim only plausible. Similarly in the case of Union of India Vs. Harnam Singh 1993 (2) SCC p. 162 it was observed that the correction of the date of birth of the civil servant should be done on the basis of irrefutable proof and the government servant must do so without any unreasonable delay. These observations made in AIR 1993 SC 2647 are also pertinent to note that the Tribunal should be made cautious in dealing with the dispute of correction of age because of the growing tendency of the public servant to raise dispute at the fag end of his retirement without explaining why the prayer was not made earlier.

12. Documents filed by the workman; to substantiate his claim are doubtful in nature. No explanation, whatsoever, was given by the workman of the inordinate delay in making representation for the correction of his age, for filing the documents at the fag end of his career.

13. On the other hand, documents filed by the management, marked Ex. M/2, 3 and 4 are genuine and they bear the signatures of the workman. It is based against the person who makes the admission. Consequently, it is held that the claim of the workman that his actual date of birth is 20-10-1929 is an after thought and against his own admissions made many years before vide Ex. M/2, 3 and 4.

14. Consequently, the action of the management in retiring Shri J. N. Singh, T. No. 14, from service w.e.f. 31-7-85 treating his date of birth as 18-7-25 is just and proper. Workman is not entitled for any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. आ. 1656—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई, 1995 को प्राप्त हुआ था।

[सं. एल 12012/366/92-आई आर (बी-2)]  
वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1656.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-12012/366/92-IR(B-II)]  
V. K. SHARMA, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
CASE REF. NO. CGIT/LC(R)(50)/1993

## BETWEEN

Shri Besharatullah S/o Shri Riyasat Ullah Abbasi, 1,  
New Kabadkhana, Sindhi Colony, Bhopal (MP)-  
462 001.

And

The Divisional Manager, Syndicate Bank, Near Bhopal  
Talkies, Bhopal (MP)-462 011.

## PRESIDED IN :

By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For Workman : Workman in person.

For Management : Shri S. L. Mukhtiyar.

INDUSTRY : Bandari DISTRICT : Bhopal (MP)

## AWARD

Dated, the 1st May, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/366/92-IRBII dated 3-3-1993, for adjudication of the following industrial dispute :—

## SCHEDULE

"Whether the claim of Sri Besharatullah that he was employed as a driver by the Divisional Manager, Syndicate Bank for driving the car owned by the management of Syndicate Bank and is consequently an employee of the Syndicate Bank is justified ? If so, whether this demand for declaring termination of his service as illegal and for reinstatement in the services of Syndicate Bank is justified ? What relief, if any, is Sri Besharatullah entitled to ?"

2. Workman has not filed his statement of claim as noticed. On 12-12-1994 workman appeared in person and stated that he does not want to file statement of claim and wants to withdraw the claim. The case was fixed for award.

3. Since the workman does not want to proceed with the case, no dispute award is hereby passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. आ. 1657—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एन आई सी आफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई, 1995 को प्राप्त हुआ था।

[सं. एल 17012/23/88/डी-1 बी आई आर (बी-2)]  
वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1657.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-17012/23/88 D-IV/IR(B-II)]

V. K. SHARMA, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
CASE REF. NO. CGIT/LC(R)(273)/1989

## BETWEEN

Shri Shital Prasad S/o Shri Nathu Ram Bheem Ward,  
Chhoti Bazar, District Bina, Jabalpur-470 113.

And

The Divisional Manager, Life Insurance Corporation  
of India, Jeevan Prakash, Jabalpur Divisional  
Office, Madan Mahal, Jabalpur(MP)-482 001.

## PRESIDED IN :

By Shri Arvind Kumar Awasthy

## APPEARANCES :

For Workmen : Shri A. K. Shasi, Advocate.

For Management : Shri R. P. Agarwal, Advocate.

INDUSTRY : Insurance DISTRICT : Jabalpur (MP)

## AWARD

Dated the 28th April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-17012/23/88-D.I(B)/IR-I dated 15-12-1989, for adjudication of the following industrial dispute :—

## SCHEDULE

"Whether the action of the management of LIC of India, Jabalpur, in terminating of services of Shri Shital Prasad S/o Shri Nathu Ram, Sub-staff, from 28-3-1988 without any compensation under the provisions of the Industrial Disputes Act, 1947 is justified ? If not, to what relief the workman concerned is entitled."

2. Admitted facts of the case are that the workman, Shital Prasad, made an application to the Branch Manager, L.I.C. of India, Bina and he was employed as a Peon in the office of the Life Insurance Corporation of India, Bina Branch. It is not in dispute that the workman worked from 30-10-1985 to 28-3-87 and he was paid the basic salary of Rs. 430/- p.m.

3. The case of the workman is that he has worked for more than 240 days continuously as a Peon in the office of the Life Insurance Corporation of India, Bina Branch, and the services were illegally terminated without giving him the required notice or compensation as contemplated under Section 25 F of I.D. Act. The workman has claimed for reinstatement and back wages.

4. The case of the management is that various Associations of Class III and Class IV Employees working in the LIC of India, had raised issues regarding the quantum of wages paid to the temporary/badli/part-time employees and the issue of regular absorption and other conditions of service of these workmen; that Shri R. D. Tulpule presided over the reference made under Sec. 10(1A) of the I.D. Act by the Government of India and during the pendency of the reference before Shri R. D. Tulpule an inter order dated 15-1-1986 was issued wherein it was directed that no temporary employee in the Corporation would be removed till the Tribunal gives the final award provided that the employee gives an undertaking that no benefit on this behalf will be claimed in these circumstances and the employee was allowed to continue in the position for the period of 85 days; that the Tribunal gave its final award on 17-4-1986 and in the award the direction that the employees who have put in 85 work days were eligible to put their claim through the Union to the Life Insurance Corporation of India for consideration of their regularisation in the LIC; that such applications were to reach in the office of the Corporation within one month from the date of publication of award i.e. 7-7-1986.

5. That according to the terms of award and compromise petition filed by the union of the workmen before Shri R. D. Tulpule it was incumbent on the workman to make application within one month but the workman has not made any such application and as such the workman is not entitled for the relief in the view of the N.I.T. Award.

6. By virtue of the interim award by Shri R. D. Tulpule given in the reference made by the Union and the management, the workman cannot claim the benefit of his service of 240 days. The compromise was entered into between the management and the Union in connection with the N.I.T. Award by Shri R. D. Tulpule and by virtue of that compromise the workman is not entitled to claim the benefit of service of 240 days and he was entitled for regular absorption provided that the application was made by him within the scheduled period. The workman has not submitted his application within the scheduled period. However, from the statement of claim, it is clear that the case of the employee is not that he made the application for regular absorption as per direction of the N.I.T. Award. Actually, the case of the workman is that on account of his continuous service of 240 days and non-observance of the provisions of Sec. 25F of the I.D. Act he is entitled for the reinstatement. The stand taken by the workman for the reinstatement is against the terms of the compromise and the order of Shri R. D. Tulpule in the N.I.T. Award to this effect.

7. Consequently, the workman is not entitled for reinstatement and the action of the management in terminating his service is justified. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. आ. 1658.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनारा बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई, 1995 को प्राप्त हुआ था।

[सं. एल 12012/223/90 आई आर बी-2)]

वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1658.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management

of Canara Bank and their workmen, which was received by the Central Government on 17-5-95.

[No. L-12012/223/90 IR(B-ID)]

V. K. SHARMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR  
CASE REF. No. CGIT/LC(R)(220)/1990

BETWEEN

Shri Rameshwar R. Singh, Linik, Canara Bank, Currency Chest, Near Mazda Cinema, Varanasi (UP).

AND

The Divisional Manager, Canara Bank, Barasia Road, Bhopal (MP).

PRESIDED EN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri M. D. N. Bajpai.

For Management : Shri R. Mehdiratta, Advocate.

INDUSTRY : Banking

DISTRICT : Bhopal (MP).

AWARD

Dated, the 28th, April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification no. L-12012/223/90-IR(B-2) Dated 20-11-1990, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Canara Bank in imposing the penalty of stoppage of one increment with cumulative effect on Sh. Rameshwar R. Singh is justified? If not, to what relief is the workman entitled?"

2. Admitted facts of the case are that Shri Rameshwar R. Singh was employed as a clerk in the Branch of Canara Bank at Barasia Road, Bhopal. It is also not in dispute that by the Memorandum dated 8-5-1986 the management after domestic enquiry has imposed the punishment of stoppage of an increment for one year with cumulative effect. The charge against the employee was that there was shortage of amount in the cash handled by the workman.

3. Case of the management is that the workman misbehaved with and threatened the Manager in the office premises and committed an act of insubordination on various counts apart from wilful slowing the performance of work; that Shri A. K. Pandit was appointed as the Enquiry Officer and he found that the charges levelled against were fully proved; that the Disciplinary Authority imposed the punishment of stoppage of one increment with cumulative effect.

4. The workman has not made any statement or prayed any relief in his statement of claim regarding the penalty of stoppage of his increment with cumulative effect which was the terms of reference. The workman has challenged the domestic enquiry which was for earlier misconduct and retained to earlier charge dated 8-5-1986. It is surprising and peculiar that the statement of claim of the workman is silent on the issue referred under the reference.

5. The domestic enquiry was held just and proper. From the statement of M. V. Narainrao the charge levelled against the workman are fully substantiated and that nothing came out in the cross-examination of M. V. Narainrao done by the workman during the domestic enquiry. The finding of learned enquiry officer is just and proper. The manner in which the workman flouted the orders of his superior and did not attend the duty clearly goes to show that misconduct was wilfully committed by him and he deserves the punishment imposed by the Disciplinary Authority. Reference is answered in favour of the management. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. आ. 1659—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच लंबित में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई, 1995 को प्राप्त हुआ था।

[संख्या एन 12012/126/93 आई आर बी 2]

बी. के. शर्मा डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1659.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workmen, which was received by the Central Government on 17-5-95.

[No. L-12012/126/93 IR(B-II)]

V. K. SHARMA, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).  
CASE REF. CGIT/LC(R)/7/1994

#### BETWEEN

Shri Satyendra Singh Gujer S/o Shri Surya Kumar, P.O. Ghatipur, Gwalior (MP).

#### AND

The Regional Manager, Bank of India, Regional Office, Gwalior (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

#### APPEARANCES :

For Workman : None.

For Management : Shri Patnaik, Officer.

INDUSTRY : Banking DISTRICT : Gwalior (MP).

#### AWARD

Dated, the May, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/126/93-IR (B-2) Dated 17-1-1994, for adjudication of the following industrial dispute :

#### SCHEDULE

"Whether the action of the management of Bank of India, Gwalior in terminating the services of Sri Satyendra Singh Gujer is legal and justified ? If not, to what relief, the workman is entitled to ?"

2. Notices were sent to the workman to appear on 10-10-91, 9-11-1994, 6-2-1995 and 24-4-1995 and files the statement of claim. But the workman neither appeared on these dates nor filed or sent his statement of claim. It appears that he is not interested in pursuing his claim. No dispute award is passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 19 मई, 1995

का. आ. 1660—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम ई सी एल के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच लंबित में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर

के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-1995 को प्राप्त हुआ था।

[सं. एन. 21012/179/88 डी-IV (बी)]

राजालाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1660.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workmen, which was received by the Central Government on 17-5-95.

[No. I-22012/179/88 D-4(B)]

RAJA LAL, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).  
CASE REF. NO. CGIT/LC(R)(78)/1989

#### BETWEEN

Shri Baijnathdas, represented through the Area General Secretary, R.K.K.M.S. (INTUC), Korba Area, Subhash Block, QMC/121, Post Korba Colliery, District Bilaspur (MP).

#### AND

The General Manager, S.E.C.L., Korba (East), Korba Colliery, District Bilaspur (MP).

PRESIDED IN : By Sri Arvind Kumar Awasthy.

#### APPEARANCES :

For Workman : A. R. Kurrey.

For Management : Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines DISTRICT : Bilaspur (MP).

#### AWARD

Dated, the 27th April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. I-22012(179)/88-D-4(B) Dated 6-4-1989, for adjudication of the following industrial dispute :

#### SCHEDULE

"Whether the date of birth of Sri Baijnathdas was correctly entered by Sub-Area Manager, SRCL, Rajgamar Colliery in his service record ? If not, to what relief the workman is entitled to ?"

2. Admitted facts of the case are that the workman was originally appointed on 15-6-68 at Rajgamar Colliery as a Dumper Khallasi, Incline No. 3 & 4, Korba of NDCCL Ltd.

3. The case of the workman is that his actual date of birth is 30-10-1937 but it is wrongly recorded in his service book as 13-7-1928; that inspite of representation by the workman for the correction of his age, the management has retired him from service w.e.f. 13-7-1988 and as such the workman is entitled for the benefits accruing on account of premature retirement.

4. The case of the management is that on the basis of declaration in Form A submitted by the workman his date of birth was recorded in the year 1968 as 13-7-1928; that the workman was expired and as such the reference has become infructuous and he is not entitled for the relief as sought.

5. Management has filed the register showing that the date of birth of the workman was 30-10-1937 and it bears the signatures of the workman. No explanation either in the statement of claim or in any way given to show the reasons of inordinate delay in making representation for the correction of age of the workman. The recent observation of the appex

Court in AIR 1993 Sc 2647 and AIR 1993 (2) SCC p. 162 are that looking to the growing tendency of the employees of raising the dispute for the correction of age at the fag end of his career, the Court or the tribunal should see that clear case of the correction of age is made out on the basis of irrefutable evidence which is conclusive in nature and that the employee should give adequate explanation of the unreasonable delay of making request for correction of his age. In this case, no such explanation of delay is given nor evidence produced for the correction of age.

6. Consequently, it is held that the date of birth was correctly recorded in the service book of the workman. Reference is answered in favour of the management and the workman is not entitled for reinstatement or any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHIY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. आ. 1661—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-95 को प्राप्त हुआ था।

[सं. एल 22012/76/88 डी-IV (बी)]  
राजानाल, ईस्क अधिकारी

New Delhi, the 18th May. 1995

S.O. 1661.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.F.C. Ltd., and their workmen, which was received by the Central Government on the 17-5-95.

[No. L-22012/76-88-D.IV(B)]  
RAJA LAL Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
Case Ref. No. CGIT/CL(R)(42)/1989

#### BETWEEN

S/Shri Etbal and Latel, Trammer and Loader, represented through the Secretary, S.K.M.S. (AITUC), Chirimiri Area, Post Korea Colliery, District Surguja (MP).

#### AND

Deputy Chief Mining Engineer, Korea Colliery of M/s. S.E.C.L. Post Korea Colliery, District Surguja (MP).  
PRESIDED IN : By Shri Arvind Kumar Awasthiy.

#### APPEARANCES :

For Workmen : Shri Arvind Srivastava, Advocate.  
For Management : Shri Rajendra Menon, Advocate.

INDUSTRY : Coal Mines DISTRICT : Surguja (MP)

#### AWARD

Dated, April 28, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012(76)/

88-D-4(B) dated 15-2-1989, for adjudication of the following industrial dispute :—

#### SCHEDULE

"Whether the action of the management of Korea Colliery of M/s. South Eastern Coalfields Ltd. in dismissing their workmen S/Shri Etbal and Latel, Trammer and Loader w.e.f. 17-12-86, is justified? If not to what relief the workmen concerned are entitled?"

2. Admitted facts of the case are that the workmen, Etbal and Latel were working respectively as Trammer and Loader in Korea Colliery of M/s. S.E.C. Ltd. It is also not in dispute that on 15-7-83 a workman Baisakhu in Korea Colliery of M/s. S.E.C. Ltd. was killed in an incident and that the news of the death of Baisakhu in an incident spread and about 700 workers gather in the Colliery Hospital and the mob turned violent and damaged the property and record of the office of the C.M.E. and after ransacking set the fire therein. It is also admitted that the F.I.R. of the incident was lodged and the charge-sheet was filed by the police against the workman, Latel and Etbal and others for the offence punishable under Sections 147, 148, 149, 332, 323 and 436 of I.P.C. It is also admitted that the workmen, Latel and Etbal alongwith others were acquitted by the Additional Session Judge vide judgment dated 15-7-1989. It is not in dispute that the charge-sheet was issued to Latel and Etbal and both these were dismissed by the Dy. C.M.E., Korea Colliery vide order dated 17-12-1986.

3. The case of the workman is that the domestic enquiry was held on the vague charges and during the enquiry copies of documents, list of witnesses were not supplied and it was conducted without giving adequate opportunity to the workmen to defend their case.

4. The workman have alleged that the findings of the Enquiry Officer are against the evidence and perverse. The workmen have claimed for reinstatement along with the consequential benefits.

5. The case of the management is that there was no violation of the principles of natural justice during the domestic enquiry and the finding of the Enquiry Officer is based on the evidence on record and the punishment is proper.

6. Following are the issues with my findings :—

#### ISSUES

1. Whether the domestic/departmental enquiry is proper and legal?
2. Whether the punishment awarded is proper and legal?
3. Whether the management is entitled to lead evidence before this Tribunal?
4. Whether the termination/action taken against the workman is justified on the facts of the case?
5. Relief and costs.

7. Issue Nos. 1 and 3.—My learned predecessor vide order dated 9-3-1992 held that the domestic enquiry was fair and proper and answered Issues No. 1 and 3 accordingly.

8. Issue Nos. 2, 4 and 5.—A Committee was constituted for the departmental enquiry against Etbal, Latel and 8 others and the management examined S. K. Paul, Sr. Security Inspector (PW1), I. P. Mishra, Dy. C.M.E. (PW2), Ramgulam Singh, Security Guard (PW3), Lallan (PW), Nayrang Thakur, Armed Guard (PW5), Pandoo, Chowkidar (PW6), Satrugan, Security Guard (PW7), J. P. Mishra, Security Guard (PW8), Bindu Singh, Armed Guard (PW9), Mohan Singh, Armed Guard (PW10), Bimbahadur, Armed Guard (PW11), Kaluram, Security Guard (PW12). In the defence workmen examined themselves and produced 8 witnesses. The Chairman of the Enquiry Committee, Shri D. Kumar, found that the charges level against the workmen were not proved. However, the Disciplinary Authority, The Dy. Chief Mining Engineer, Korea Mines, Chirimiri Area, came to the conclusion that the charges against the workmen were proved.

9. The Chairman and the Members of the Enquiry Committee elaborately dealt with the evidence produced by the management in the domestic enquiry and in second para of

last page of the conclusion has observed that some of the witnesses seen the workmen destroying the office and setting fire and instigating the mob. I have gone through the statement of S. K. Paul (PW1), Senior Security Inspector, who was admittedly present at the time of the ghastly incident of ransacking the office and burning the official record and making commission of the attempt to murder the officers. Security Inspector, S. K. Paul (PW1) has clearly stated that both Etbal and Latel were not only the members of the mob but they were actively participating in the commission of offence. Ramgulam, Security Guard (M.W. 3) has also clearly mentioned that Latel and Etbal were the members of the mob which was committing the offence. No doubt, it is difficult for eye witness to give details of the over act done by the particular witness in such a unruly mob but the very fact the workmen Latel and Etbal were members of the unlawful assembly make them liable for the offence punishable under Section 436 and other offence committed by the rioters. On the basis of the rule of collective liability in case of unlawful assembly the workmen were rightly found guilty for the misconduct by the learned Disciplinary Authority.

10. It is observed in case of Ram Avtar Sharma Vs. State of Haryana (1985-11-LLJ- p. 187 (SC)) that Section 11-A of the I. D. Act not only to deal with the order of discharge or dismissal on merits but also determine whether the punishment was adequate. The Enquiry Officer or the trial courts are always in better position to evaluate the veracity of the evidence because they get the benefits of watching the demeanour of the witness. The finding in the departmental enquiry can be interfered only in case it is not based on the proper appreciation of the evidence. The Disciplinary Authority has taken into consideration the relevant evidence produced in the domestic enquiry and there is no reason to differ from his finding. In this connection, it is pertinent to note that there is no reason to doubt the veracity of the statement of the Senior Security Inspector, Shri S. K. Paul (M.W. 1) and other witnesses were present on the spot. F.I.R. was lodged immediately against these workmen, Etbal and Latel and no reason whatsoever exists to give false statement against these workmen or to lodge concocted F.I.R. involving these workmen in such a serious offence. The police has investigated the case and found that the charges of commission of offence under Sections 147, 436 and others of I.P.C. were made out against Etbal and Latel. Learned Trial Judge found that prima facie evidence was against these persons and the charges were framed against them.

11. From the perusal of the Judgment dated 15-7-85 delivered by Shri C. M. Das, Additional Sessions Judge, Manendragarh in Criminal Case No. 97/84 it is clear that the accused persons were acquitted from the serious offence punishable under Sections 332, 436, 323, 147/149 I.P.C. on account of the fact that the case against them was not proved beyond reasonable doubt. The acquittal of the delinquent employees by the learned A.S.J. was on technical ground and it was not an honourable and such acquittal on offence of doubt is not capable of providing any benefit to the workmen.

12. Consequently, I hold that the finding of the Disciplinary Authority that the workmen, Etbal and Latel were involved in violent activities resulting in heavy damages by setting fire in office is based on evidence of reliable witness. The learned Disciplinary Authority held that the charges of gross misconduct are prove against both the workmen. Looking to the enormity of the misconduct the learned Disciplinary Authority has taken proper step of the dismissal of these workmen from their service.

13. In view of the above, Issue Nos. 2 and 4 are answered in favour of the management and the workmen are not entitled to any relief.

14. Consequently, the action of the management of Korea Colliery of M/s. S.E.C. Ltd. in dismissing their workmen S. Sri Etbal and Latel, Trammer and Loader w.e.f. 17-12-1986 is justified. Workmen are not entitled to any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. ग्रा. 1662—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एक सी आई के प्रवर्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई, 1995 को प्राप्त हुआ था।

[सं. एल. 22012/288/94 आई आर (सी-II)]  
राजालाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1662.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on 17-5-1995.

[No L-22012/288/94-IR (C-II)]

RASA LAL, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
Case Ref. No. CGIT/LC(R)(184)/1994

#### BETWEEN

Smt. Gangajali W/o Shri Kewalram and Smt. Rajmeri Bai W/o Late Amar Sai and Sri Dhaneshwar Prasad S/o Shri Ogar Sai, Gram Kunjnagar, Tahsil Surajpur, District Surguja (MP).

#### AND

District Manager, Food Corporation of India, Bilaspur (MP).

#### PRESIDED IN :

By Shri Arvind Kumar Awasthy.

#### APPEARANCES :

For Workmen—None.

For Management—Shri Devangan.

INDUSTRY : FCI

DISTRICT : Bilaspur (MP)

#### AWARD

Dated, the 11th April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/288/94-IR (C-II) dated 28-9-94, for adjudication of the following industrial dispute :—

#### SCHEDULE

"Whether the action of the Distt. Manager, FCI Bilaspur in not regularising Smt. Gangajali W/o Wewal Ram, Smt. Rajmeri Bai W/o Late Amar Sai and Sri Dhaneshwar Prasad S/o Shri Ogar Sai, Ex-contract labourers in the services of FCI, MSD, Bismampur as per agreement dated 12-4-91 is legal and justified ? If not, to what relief are these three workmen entitled ?"

2. Workmen have neither filed the statement of claim nor appeared in spite of the repeated notices sent to them. Prayer of the management to close the case for no dispute award is just and proper. No dispute award is hereby passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer



नई दिल्ली, 18 मई, 1995

का. आ. 1663—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम ई सी एल के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई, 1995 को प्राप्त हुआ था।

[सं. एल 22012/483/91 आई आर (सी-II)]

राजालाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1663.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.F.C. Ltd. and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-22012/483/91-IR (C-II)]

RAJA LAL, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
Case Ref. No. CGIT/LC(R)(93)/1992

## BETWEEN

Shri Prem Lal S/o Dasrath, represented through the General Secretary, Koyla Shramik Sabha (HMKP), Post Korba Colliery, District Bilaspur (MP)-495667.

## AND

The General Manager, S.F.C.L., Rajgamar Colliery, Post Rajgamar Colliery, District Bilaspur (MP).

## PRESIDED IN :

By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For Workmen—None.

For Management—Shri S. K. Sarangi.

INDUSTRY : Coal Mines DISTRICT : Bilaspur (MP)

## AWARD

Dated, the 28th April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/483/91-IR (C-II) dated 21-5-1992, for adjudication of the following industrial dispute :—

## SCHEDULE

"Whether the action of the management of Rajgamar Colliery of M/s. S.F.C. Ltd., in terminating the services of Shri Prem Lal S/o Dasrath w.e.f. 11-10-90 is legal and justified? If not, to what relief the concerned workman is entitled to?"

2. Notices were issued to the management and the workman for their appearance on 13-7-92 and on 28-8-92, 16-10-1992, 9-12-1994, 24-1-1995 and 5-4-1995 the workman has not appeared and has not filed the statement of claim. Prayer of the management to close the case is just and proper. Workman is not interested in pursuing the case and as such no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. आ. 1664—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार एन सी एल अमलीहरी कोलियरी के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई, 1990 को प्राप्त हुआ था।

[सं. एल-22012/150/91 आई आर (सी-II)]

राजालाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1664.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of N.C.L., Amlohari Colliery and their workmen, which was received by the Central Government on 17-5-1995.

[No. L 22012/150/91-IR (C II)]

RAJA LAL, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
Case Ref. No. CGIT/LC(R)(131)/1991

## BETWEEN

Shri Ram Lal, Asstt. Store Keeper, represented through the President, M.P. Koyla Mazdoor Panchayat, Camp Office Gorai Mansion, G.T. Road, Asansol (Bihar).

## AND

The General Manager, Amlohari Project of N.C.L., Post Amlohari Colliery, District Sidhi (MP)-484116.

## PRESIDED IN :

By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For Workman—Shri R. K. Samaiya, Advocate.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines DISTRICT : Sidhi (MP)

## AWARD

Dated, the 8th May, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/150/91-IR (Coal-II) dated 11-7-1991, for adjudication of the following industrial dispute :—

## SCHEDULE

"Whether the action of the management of Amlohari Project of NCL, PO : Amlohari, Dist. Sidhi in not promoting their workman Shri Ram Lal, Asstt. Store Keeper as Store Keeper w.e.f. 26-9-1988, the workman junior to him were promoted, is legal and justified? If not, to what relief the workman is entitled and from what date?"

2. The admitted facts of the case are that Shri Ram Lal was working as Asstt. Store Keeper w.e.f. 17-1-1983 at Amlohari Project of NCL, District Sidhi. He was not promoted to the post of Storekeeper.

3. The case of the workman is that the management has promoted his juniors and the claim of the workman, Ram Lal, for the promotion to the post of Store Keeper was illegally ignored. Workman has further alleged that has submitted representation to the General Manager, N.C.L. Amlohari Project on 30-9-1988 but the same was rejected.

4. The workman has alleged that he is senior most amongsts all the Asstt. Store Keepers and the adverse entry in the Confidential Roll was never communicated to him. He has the required qualifications and as such he is entitled for promotion from Asstt. Store Keeper to Store Keeper.

5. The case of the management is that the Departmental Promotion Committee considered the case of the workman along with other eight candidates and Ram Lal was not found fit for promotion by the Selection Committee and as such he was not promoted. It is further alleged by the management that 13 warning letters were issued to the workman and the workman has received all these letters and he did not improve his performance.

6. It is observed in the case of Brooke Bond India (P) Ltd. Vs. Workman (AIR 1966 SC p. 668=1966-I-LJ p. 402) that promotion to a higher post involves process of selection from out of those eligible candidates wherein comparative merits which includes initiative and efficiency, personality and suitability of eligible workman is considered.

7. Authority empowered to promote always has an intimate knowledge of the workman in the matter of promotion and it has a greater value. It would be wholly in appropriate for any outside authority to interfere in the judgment unless it is patently mala fide. However, the case of Ram Lal was considered by the D.P.C. and in view of the various adverse letters issued to him by the management he was not found fit for the promotion. For the post of Cashier seniority alone can never be the basis of promotion. There is no ground to interfere the report of the Departmental Promotion Committee which was based on the Confidential Report and the relevant consideration of the promotion.

8. The action of the management is justified. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. अ. 1665.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबंध नियोजको और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई 1995 को प्राप्त हुआ था।

[सं. एन 22012/64/85-डीवी/आईआर (सी-II)]

राजालाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1665.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to management of W.C. Ltd. and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-22012/64/85-D.V./IR (C-II)]

RAJA LAL, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
Case Ref. No. CGIT/LC(R)(122)/1989

#### BETWEEN

Shri B. C. Joshi, represented through the General Secretary, Bhartiya Koyla Khadan Mazdoor Sangh (BMS), P.O. Nowrozabad Colliery, District Shahdol (MP)-484555.

#### AND

The Sub-Area Manager, Johilla Sub-Area of W.C.L. P.O. Nowrozabad Colliery, District Shahdol (MP)-484555.

#### PRESIDED IN :

By Shri Arvind Kumar Awasthy.

For Workman—Shri R. K. Gupta, Advocate.

For Management—Shri R. Menon, Advocate.

INDUSTRY : Coal Mines DISTRICT : Shahdol (MP)

#### AWARD

Dated, the 27th April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-2012/64/85-D.V./IR (C-II) dated 13-6-1989 for adjudication of the following industrial dispute :

#### SCHEDULE

"Whether the action of the Management of Nowrozabad Colliery of M/s. E.C. Ltd. in fixing pay of Shri B. C. Joshi less than that of those Senior Overmen who were junior to him, is justified? If not, to what relief the workman concerned is entitled?"

2. The admitted facts of the case are that Shri B. C. Joshi was employed as a Senior Overman with effect from 1-9-1978; that at the time of his promotion to the post of Senior Overman the National Coal Wage Agreement was applicable to him. It is also not in dispute that Shri K. N. Rawat, Shri Bakridi Khan, Shri B. D. Tiwari, Shri K. K. Mathew and Shri P. K. Roy were also promoted.

3. The case of the workman is that his basic pay is lower than his juniors viz. B. D. Tiwari, K. K. Mathew and P. K. Roy. The prayer of the workman is that he should also get the basic pay of his above mentioned Overman as they are promoted from 1-9-1978 and July 1981. It is further alleged by the workman that his basic pay was reduced vide order dated 15-9-1980 to Rs. 764 from Rs. 805 w.e.f. 1-1-1979 and the management has illegally recovered the amount paid to the workman.

4. The case of the management is that in the year 1979 the fixation of pay of Shri B. C. Joshi was wrongly done and it was detected in the year 1980 that his basic pay should have been Rs. 624 but it was fixed at Rs. 806 with effect from 1-9-1978; that the deduction was done in instalments of Rs. 50 p.m. from his salary on account of incorrect fixation. Management has further alleged that the so called juniors of the workman Bakridi Khan and K. K. Mathew were not working in the Nowrozabad Colliery where the applicant was working and as such workman cannot compare his case with Bakridi Khan and K. K. Mathew. Management has further alleged that there is no irregularity in fixation of pay of other co-workers viz. K. K. Mathew and Bakridi Khan and fixation of pay of the workman was done in accordance with the prevailing rules.

5. The terms of reference was made the issue in the case.

6. Workman has examined himself and the Management has examined B. B. Singh, Dy. Chief Personnel Manager, S.E.C.L. Bhagrakhand Area.

7. Workman has alleged that he was employed as Overman and he was promoted along with Bakridi Khan and K. N. Rawat on the post of Senior Overman with effect from 1-9-1978 but these co-workers got more pay than his workman. It is further alleged that his juniors K. K. Mathew and B. D. Tiwari were promoted to the post of Sr. Overman in the year 1981 and they are getting more pay than the workman, B. C. Joshi.

8. In paras 9 and 10 of his cross examination B. C. Joshi admitted that he cannot give the details and he has no knowledge of the manner in which the pay fixation of K. K. Mathew and other workers were done. B. C. Joshi has alleged that his only grievance is that K. K. Mathew junior to him is getting more pay. B. C. Joshi has not given the details of the pay of the alleged juniors nor he has produced any evidence to show that K. K. Mathew and others are getting more pay than him.

9. However, from the statement of B. B. Singh, Dy-Chief Personnel Manager, it is clear that the workmen, Bakridi Khan and K. N. Rawat are getting the same pay as B. C. Joshi and the basic pay of all these workmen fixed at Rs. 624/-. Other workmen K. K. Mathew and B. D. Tiwari and others are not in the seniority list with B. C. Joshi. It is clear that B. C. Joshi is working in different area than his alleged juniors, K. K. Mathew and B. D. Tiwari are working and they will certainly be governed by the different seniority list and the difference in the basic pay of K. K. Mathew and B. D. Tiwari cannot be a ground revise the basic pay of B. C. Joshi.

10. The detail of the fixation of pay of B. C. Joshi is given in para 7 of the statement of B. B. Singh and the correctness of the fixation which is, to my mind is the crux of the dispute, is not challenged in the cross-examination of B. B. Singh. Consequently, it is proved that the fixation is done in accordance with the rules and as such it cannot be revised. However, some of the alleged juniors of the workman, B. C. Joshi, are working in different area and they are governed by different seniority list and as such even if their basic pay is more than the basic pay of B. C. Joshi, it cannot be a ground to provide more pay to the workman, B. C. Joshi.

11. The workman has totally failed to prove that the action of the management in fixing pay of B. C. Joshi less than of other Senior Overmen who were junior to him was unjustified or improper. Consequently, the reference is answered against the workman. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1994

का. आ. 1666.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. ई. सी. लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12 मई, 1995 को प्राप्त हुआ था।

[सं. एल-22012/326/91-आई आर(सी-II)]

राजलाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1666.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-22012/326/91-IR (C-II)]  
RAJA LAL, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(177)/1991

#### BETWEEN

Shri Hitooram S/o Girdhari, represented through the General Secretary, Rashtriya Colliery Khadan Mazdoor Sangh, Post Jamuna Colliery, District Shahdol (MP)-484001.

#### AND

The Sub-Area Manager, Jamuna and Kotma Sub-Areas, Post Jamuna Colliery, Distt. Shahdol (MP)-484001.  
PRESIDED IN :

By Shri Arvind Kumar Awasthy.

#### APPEARANCES :

For Workman—None.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines DISTRICT : Shahdol (MP)

#### AWARD

Dated, the 28th April, 1995

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. L-22012/326/91-IR (C-II) dated 7-10-1991, for adjudication of the following industrial dispute :

#### SCHEDULE

"Whether the action of the Sub-Area Manager, Jamuna and Kotma sub Area of South Eastern Coalfields Ltd., P.O. Jamuna Colliery, Distt. Shahdol (M.P.) in terminating the services of Shri Hitooram S/o Girdhari, Casual Piece rated worker w.e.f. 10-6-84 is legal and justified? If not, to what relief is the workman entitled to?"

2. The reference was received on 15-10-1991. Since then more than ten opportunities were given to the workman to file the statement of claim, but the workman did not do so. On 2-1-1995, management's representative, stated that the case is settled and he will file the settlement, but no settlement has been filed. Workman also did not appear on subsequent dates. It appears that the case is settled out of court and that is why the workman chosen not to pursue the case. In these circumstances, no dispute award is passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. आ. 1667.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. एम. पी. डी. आई. लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई, 1995 को प्राप्त हुआ था।

[सं. एल 22012/319/90-आई आर (सी-II)]

राजलाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1667.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of CMPDIL and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-22012/319/90-IR (C-II)]  
RAJA LAL, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(25)/1991

#### BETWEEN

Shri Madan Lal S/o Shri Rup Singh, R/o Let. Sub Post Office Chhal, Head Post Office Bilaspur-496665.

#### AND

The Regional Director, C.M.P.D.I.L., M.B. Market, Near New Bus Stand, Bilaspur (MP)-495001

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For workman—Himself.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : CMPDIL DISTRICT : Bilaspur (MP)

## AWARD

Dated, the 28th April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/319/90-IR (C-II) dated 15-2-1991, for adjudication of the following industrial dispute :

## SCHEDULE

"Whether the management of Central Mine Planning and Design Institute Ltd., Bilaspur justified in stopping Sri Madan Lal S/o Rup Singh, Casual Labour at Chall Camp, Distt. Raigarh w.e.f. 7th September, 1988 ? If not, to what relief the workman concerned is entitled to ?"

2. More than 15 opportunities were given to the workman to file the statement of claim but he did not care to file the statement of claim and contest the case. Prayer of the management to close the case for no dispute award is just and proper. No dispute award is hereby passed as the workman is not interested in pursuing his claim. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का.आ. 1668 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम ई सी लि. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-1995 को प्राप्त हुआ था।

[सं.एल. 22012/323/91-आई आर (सी II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1668.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-22012/323/91-JR (C-II)]

RAJA LAL, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(14)/1992

## BETWEEN

Shri Hori Lal S/o Shri Puniram, represented through the Secretary (C), S.K.M.S., Branch Banki Mongra, District Bilaspur (MP).

## AND

The Sub Area Manager, S.E.C.L., Banki Colliery, P.O. Banki Mongra, District Bilaspur (MP)-495447.

## PRESIDED IN :

By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For Workman—Shri Deepesh Mishra.

For Management—Shri Mukhyopadhyaya.

INDUSTRY : Coal Mines DISTRICT : Bilaspur (MP)

## AWARD

Dated, the 28th April, 1995

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. L-22012/323/91 IR (C-II) dated 8-1-1992, for adjudication of the following industrial dispute :

## SCHEDULE

"Whether the management of Sub Area Manager, Banki Colliery of S.E.C. Ltd., Bilaspur is justified in dismissing Shri Hori Lal S/o Puniram, PR Loader from service w.e.f. 5-5-90 ? If not, to what relief the workman concerned is entitled to ?"

2. Workman has not filed the statement of claim inspite of various adjournments prayed by him in last two years. However, the workman remained absent on later dates of hearing. It is prayed by the management that the case be closed as the workman is neither appearing nor filing his statement of claim. It is clear that the workman is not interested in pursuing the claim. No dispute award is passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का.आ. 1669 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. ई. सी. लि. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-1995 को प्राप्त हुआ था।

[सं. एल 22012/282/90-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1669.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of CMPDIL and their workmen, which was received by the Central Government on 17-5-1995.

[No. L-22012/282/90-IR (C-II)]

RAJA LAL, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. CGIT/LC(R)(23)/1991

## BETWEEN

Shri Bhagat Ram S/o Bisahu R/o Lat. Sub Post Office Chhal, Head Post Office Chandrashekharpur (Iro), Tah. Dharamjaigarh, District Raigarh (MP)-496001.

## AND

The Regional Director, CMPDIL, M.V. Market, Near New Bus Stand, Bilaspur (MP)-495001.

## PRESIDED IN :

By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For Workman—In person.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : CMPDIL DISTRICT : Bilaspur (MP)

## AWARD

Dated, the 27th April, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/282/90-

IR (C-II) dated 15-2-1991, for adjudication of the following industrial dispute :

#### SCHEDULE

"Whether the management of CMPDIL, Bilaspur, justified in stopping Sri Bhagat Ram S/o Bisahu from work w.e.f. August 1988 at their Chhal Camp. If not, then to what relief the workman is entitled to?"

2. Notice to the workman for appearance and filing the statement of claim was issued on 20-2-91, 24-4-91, 10-7-91 and 12-9-91, but the statement of claim was not filed by the workman. On 3-2-92 Counsel appeared on behalf of the workman, but the statement of claim was not filed. On subsequent dates of hearing on 24-11-94, 23-2-95 and 4-4-95 workman remained absent and the management prayed to close the case as the workman was not appearing. Prayer of the management to close the case is just and proper because in last five years inspite of repeated opportunities given to the workman, he has not filed the statement of claim. As such, workman does not appear to be interested in pursuing the case. No dispute award is hereby passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. आ. 1670 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-1995 को प्राप्त हुआ था।

[मं. एल-22012/382/एम/90 आई आर (सी-II)]  
राजा लाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1670.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on the 17-5-95.

[No. L-22012/382/M/90-IR (II)]  
RAJA LAL, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

Case Ref. No. CGIT/LC(R)(66)/1992.

BETWEEN :

Shri Dharamdas Thosare, Watchman, R/o Or. No. 64/26, South T. T. Nagar, Bhopal (MP).

AND

The Regional Manager, Food Corporation of India, Chetak Building, Maharana Pratap Nagar, Bhopal (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman.—None.

For Management.—Shri S. Paul, Advocate.

INDUSTRY : FCI.

DISTRICT : Bhopal (MP).

#### AWARD

Dated, May, 11th 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/382/1995 GI/95—7

M/90-IR(C-II) Dated 30-3-1992, for adjudication of the following industrial dispute :

#### SCHEDULE

"Whether the action of the management of Food Corpn. of India, Bhopal, in terminating the services of Shri Dharamdas Thosare, Watchman w.e.f. 31-10-87 is legal and justified? If not, to what relief the concerned workman is entitled to?"

2. The case of the management is that the workman during duty hours in QC Section of Regional Officer, Bhopal entered in the Personnel branch on 13-1-86 under the influence of liquor and misbehaved with a female employee, namely, Smt. Rajni Bhavsar, Asstt. Gr. I.

3. The workman has not filed the statement of claim inspite of the repeated notice issued to him, he has also not appeared.

4. Management has filed the D.E. file and from the perusal of the domestic enquiry file, it is clear that no principles of natural justice was violated and the learned enquiry officer has based his findings on the statement of six witnesses and the action of the Disciplinary Authority or removal of the workman from the service is in accordance with the gravity of the misconduct committed by the workman.

5. Consequently, action of the management in terminating the service of the workman is legal and justified and reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer.

नई दिल्ली, 18 मई, 1995

का.आ. 1671 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-1995 को प्राप्त हुआ था।

[मं. एल-22012/141/91 आई आर (सी-II)]  
राजा लाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1671.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workmen, which was received by the Central Government on the 17-5-95.

[No. L-22012/141/91-IR(II)]  
RAJA LAL, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

Case Ref. No. CGIT/C(R)(146)/1991

BETWEEN :

Shri Subhash Sarkar, represented through the Vice President, Rashtriya Koyla Khadan Mazdoor Sangh, Post South Jhagrakhand Colliery, District Sarguja (MP)-497 446.

AND

The Sub-Area Manager, South Jhagrakhand Sub-Area of S.E.C.L. Post South Jhagrakhand Colliery, District Sarguja (MP)-497 446.

PRESIDED IN : By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For Workman—None.

For Management.—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines. DISTRICT : Surguja (MP).

## AWARD

Dated, May, 1st 1995

## BETWEEN :

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/141/91-IR (Col-II) dated 8-8-1991, for adjudication of the following industrial dispute :

## SCHEDULE

"Whether the action of the management of South Jhagrakhand Sub-Area of SECL in dismissing from services of their workman Shri Subhash Sarkar, Tipper Driver South Jhagrakhand is legal and justified ? If not, to what relief the workman is entitled ?"

2. Inspite of several opportunities given in last four years to the workman to file the statement of claim, the workman or the union did not do so. This case is pending since 19-8-1991. Management has filed its statement of claim. Workman remained absent continuously in last three hearings. It appears that the workman is not interested in prosecuting his case. No dispute award is passed. Parties to bear their own costs.

ARVIND KUMAR, AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. आ. 1672.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई 95 को प्राप्त हुआ था।

[सं एल-22012/255/92-आई आर(सी-II)]  
राजालाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1672.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C. Ltd., and their workmen, which was received by the Central Government on the 17-5-95.

[No. L-22012/255/92-IR(II)]  
RAJA LAL, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)  
Case Ref. No. CGIT/LC(R)(243)/1992

## BETWEEN :

Shri Madhia S/o. Chaitan, represented through the  
General Secretary, M. P. Koyla Mazdoor Sabha

(HMS), P.O. South Jhagrakhand Colliery, District  
Surguja (MP).

## AND

The Sub-Area Manager, Duman Hill Colliery, P.O.  
Sonawani Colliery, District Surguja (MP).  
PRESIDED IN : By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For Workman.—Shri Kashinath.

For Management.—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines. DISTRICT : Surguja (MP).

## AWARD

Dated, May, 1st 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/255/92-IR(C-II) dated 10-12-1992, for adjudication of the following industrial dispute :

## SCHEDULE

"Whether the action of the Manager, Duman Hill Colliery of Chirimiri Area of S.E.C. Ltd., in retiring Shri Madhia S/o. Chaitan, Loader, from services w.e.f. 10-9-1986 is legal and justified ? If not, to what relief the workman entitled to ?"

2. Reference was made in the year 1992. Case was fixed for filing statement of claim by the parties. Parties instead of filing the statement of claim chosen to settle the case between themselves. Ultimately, parties filed and verified the settlement dated 23-9-93. Terms of the settlement are as under :—

## TERMS OF SETTLEMENT

1. The age of Shri Madhia will be corrected in all relevant records, as 56 years as on 28-8-93, as per recommendation of the Apex Medical Board and will be allowed to join his duties.
  2. The workman/union will not claim any wage for the idle period from the date of retirement in 1986 to the date of re-joining his duty.
  3. The period of absence will be counted for the purpose of calculation of Gratuity only at the time of his retirement.
  4. This issue will not be raised by the workman concerned/union at any forums in future and will be treated as closed.
  5. The case pending before the CGIT will be treated as withdrawn, in view of this settlement.
3. The aforesaid terms of settlement are just and fair and there remains no dispute between the parties. No dispute award is passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 18 मई, 1995

का. आ. 1673.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस ई सी एल के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मई 1995 को प्राप्त हुआ था।

[सं एल-22012/388/91-आई आर(सी-II)]  
राजालाल, डेस्क अधिकारी

New Delhi, the 18th May, 1995

S.O. 1673.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S. E. C. Ltd., and their workmen, which was received by the Central Government on 17-5-95.

[No. L-22012/388/91 IR(C-II)]  
RAJA LAL, Desk Officer

## ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).  
CASE REF. NO. CGIT/LC(R) (10)/1992.

## BETWEEN

The Secretary, S. K. M. S. (AITUC), P.O. West Chirimiri Colliery, District Surguja (MP).

The Secretary, R. K. K. M. S. (INTUC), P. O. West Chirimiri Colliery, District Surguja (MP).

## AND

The Dy. General Manager, West Chirimiri Colliery, P. O. West Chirimiri, District Surguja (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

## APPEARANCES :

For Union : Shri Deepak Jaiswal & Shri Chandrika Pd.

For Management : Shri L. B. Singh & Shri A. K. Shasi, Adv.

INDUSTRY : Coal Mines DISTRICT : Surguja (MP).

## AWARD

DATED : APRIL 27, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/388/91-IR (C-II) Dated Nil, for adjudication of the following industrial dispute :

## SCHEDULE

"Whether the proposition dated 29-4-91 as notified by the Dy. General Manager, West Chirimiri Colliery of S. E. C. Ltd. Dist. Surguja (M. P.) for deducting 8 days wages as per proviso to Section 9(2) of P. W. Act 1936 from the wages of 159 workers employed in 7/8 inclines of West Chirimiri Colliery who are in receipt wages more than Rs. 1600/- per month is legal and justified. If not, to what relief are the said 159 employees entitled to ?"

2. Parties have not filed the statement of claim. However, the Unions even after the repeated directions by the Tribunal have failed to file the statement of claim. On subsequent hearings Unions remain absent. Management was appearing before the Tribunal for last more than three years and as such prayer of the management to pass no dispute award is just and proper. Consequently, no dispute award is passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 19 मई, 1995

का.आ. 1674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कलकत्ता पोर्ट ट्रस्ट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-5-95 को प्राप्त हुआ था।

[संख्या एन-32011/16/91-आई आर (विविध)]

बो. एम. डेविड, डेस्क अधिकारी

New Delhi, the 19th May, 1995

S.O. 1674.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Calcutta Port Trust and their workmen, which was received by the Central Government on 19-5-95.

[No. L-32011/16/91-IR(Misc.)]

B. M. DAVID, Desk Officer

## ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
AT CALCUTTA

Reference No. 35 of 1992

## PARTIES :

Employers in relation to the management of Calcutta Port Trust

## AND

Their Workmen.

## PRESENT :

Mr. Justice K. C. Jagadeb Roy, Presiding Officer.

## APPEARANCE :

On behalf of Management.—Mr. M. K. Das, Senior Labour Officer (IR).

On behalf of Workmen.—None.

STATE : West Bengal

INDUSTRY : Port

## AWARD

By Order No. L-32011/16/91-IR (Misc) dated 28-5-1992 the Central Government in exercise of its power under section 10(2A)(1)(d) of the Industrial Disputes Act 1947 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Calcutta Port Trust in allowing overriding seniority of S/Shri Nanigopal Banerjee and Monotosh Sengupta and permanently adjusting Shri Nanigopal Banerjee as regular Powriwallah with effect from 1-4-1989 though they are junior to Shri Naresh Chandra Saha in the substantive post of Lascar under Mooring Master Director Marine Department, Calcutta Port Trust and denying promotion to Shri Naresh Chandra Saha as regular Powriwallah though senior to above employees is justified or not ? If not, to what relief the concerned workman is entitled to ?"

2. The parties have filed their written statements and in addition the workmen filed a rejoinder to the written statement of the management. List of documents was also filed by the workmen. It is apparent from the order of reference that the Chairman, Calcutta Port Trust, as well as the General Secretary of the National Union of Waterfront Workmen (1) were noticed in this reference. Management has filed the letter of authority in favour of Mr. P. Roy, Deputy Labour Adviser & Industrial Relations Officer, Calcutta Port Trust to represent in this reference. Even though written statements were filed by both the parties, no party led evidence before this Tribunal.

3. A petition dated 8th June 1994 signed by Shri P. Roy the representative of the management and Shri N. Dasgupta, General Secretary of the National Union of Waterfront Workmen (1) was submitted to this Tribunal by post, which was received by this Tribunal on 20th April 1995. Since this was received by post, it was placed on 26-4-1995 for consideration. In the petition it has been stated that the Union did not like to pursue the matter before this Tribunal and the management had also no objection to such submission of the union and both of them desired that a 'No Dispute' Award be passed in this reference. Accordingly I pass a 'No Dispute' Award in this reference in terms of this joint petition.

The reference is disposed of accordingly.

K. C. JAGADEB ROY, Presiding Officer

Dated, Calcutta,

The 4th of May 1995.

नई दिल्ली, 19 मई, 1995

का.आ. 1675.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण-1, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-5-95 को प्राप्त हुआ था।

[संख्या एल-12011/75/90-आई.आर.बी. 2]  
वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 19th May, 1995

S.O. 1675.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-1, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 19-5-95.

[No. L-12011/75/90-IR(B-1)]

V. K. SHARMA, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, BOMBAY

Reference No. CGIT-49 of 1991

#### PRESENT:

Shri Justice R. G. Sindhakar, Presiding Officer.

#### PARTIES:

Employers in relation to the management of Bank of Maharashtra.

#### AND

Their Workmen.

#### APPEARANCES:

For the Management: Shri Nayak, Officer.

For the Workmen: Shri Vaidya, Advocate.

INDUSTRY: Banking. STATE: Maharashtra.

Bombay, dated the 4th day of May, 1995

#### AWARD

Government of India, Ministry of Labour has referred dispute mentioned in the schedule for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947:

"Whether the action of the management of Bank of Maharashtra in refusing grant of special allowance for Franking Machine Operators who are not covered under the settlement dated 14-3-1986 is justified? If not what relief the concerned workmen are entitled to?"

2. Statement of claim has been filed on behalf of the workmen and written statement thereto has been filed by the Bank. Admitted position is that the Bank of Maharashtra entered into a settlement on 14th March, 1986 with representatives of All India Bank of Maharashtra Employees Federation. Under the said memorandum of settlement the Bank resolved the dispute pending between the Federation and the management regarding withdrawal of Franking Machine Allowance that was being paid to the sub-ordinate staff. The management agreed to continue to pay that allowance to all the persons who were getting it prior to before and that allowance was equated to that of Cash Peons allowance as per existing practice. The grievance of the Federation is that those who were not covered by the memorandum of settlement who were not paid Franking Machine Allowance

prior to that withdrawal should also be paid that allowance if they operate Franking Machines. The management did not agree to do so on the ground that the Bipartite Settlements did not provide for it and in view of the specific settlement arrived at on 14th March, 1986 those who were not being paid Franking Machine operating allowance were not entitled to receive the same. The Federation, therefore, preferred to make a grievance about it resulting in the present reference for adjudication. The Federation contends that equal pay for equal work doctrine should be made applicable to the present case.

3. The management has in its written statement contended that the specific dispute with regard to the discontinuance of the allowance to those who were getting it was settled by the memorandum of settlement on 14th March, 1986 and it was stipulated that those who were getting it should continue to get it and at no time the Federation asked for payment of allowance to those who were not being paid that allowance and who were operating the Franking Machines. It further contended that the settlement has been implemented faithfully and honestly and there was a prohibition imposed by the Government in paying such allowance. The management has accused Federation of unfairness in getting the allowance restored by settlement and then asking for allowance for those who were not getting it by raising this dispute. It is also submitted that where the allowance is not paid either machines are not operated by sub-staff employees or the machines are out of order/not in use and therefore, non-payment of such allowance is just and proper.

4. In view of the dispute referred for adjudication it is required to be found out whether the action of the management of Bank of Maharashtra in refusing the grant of special allowance for Franking Machine Operators who are not covered by the settlement dated 14-3-1986 is justified. The Federation's case is that those who are doing the same work ought to receive the same pay and should be governed by the same conditions of service. Therefore, the management cannot deny payment of Franking Machine operating allowance to those who are operating machines though their case is not covered by the settlement. The Federation in the first instance raised dispute about discontinuance of allowance and the management by a settlement dated 14-3-1986 agreed to restore it. Obviously the very fact that the dispute was about discontinuance and agreement was for a restoration it would apply to those who were getting it in the past. The statement is clear on the point and there is no dispute raised on either side about it.

5. The Federation is now relying upon the doctrine of equal pay for equal work, or same conditions of service for those who are doing same work. It cannot be disputed that those who are doing the work of operating Franking Machines are not doing same or equal work and once that is accepted then Federation would be justified in relying upon the decision of Supreme Court in its behalf. In the case of Dharendra Chamlu and another Vs. State of U.P. reported in 1986, Supreme Court Cases (L&S) 187 the Supreme Court dealt with cases of Casual Workers on daily wages basis engaged by Government in different Nehru Yuva Kendras Class IV employees against sanctioned post who were not getting salary and conditions of service on par with regular workers. The Supreme Court laid down that it was not open to Government to deny such benefits to casual workers on ground of their acceptance of employment with full knowledge of their disadvantage and such denial would be violative of Article 14. The Supreme Court noted the concession in the counter affidavit that "the persons engaged by the Nehru Yuva Kendras performed the same duties as is performed by Class IV employees appointed on regular basis against sanctioned posts". In yet another decision in the case between Surinder Singh and another Vs. Engineer-in-Chief C.P.W.D. and another reported in 1986 Supreme Court Cases (L&S) 189, the Supreme Court once again evoked the doctrine of equal pay for equal work in respect of those workers of C.P.W.D. on daily wages and held that they were entitled to the salary and allowances equal to regular and permanent employees employed there to do identical work.

6. On behalf of the Federation, therefore, the submission is that the management of the Bank cannot discriminate between those who were being paid Franking Machine operators allowance prior to 14th March, 1986 and in respect of whom the settlement reached entitled them to restoration of the same and those who were not covered by that settlement



and though operating the Franking Machines. It is not the grievance of the Federation that the Bank has not implemented the settlement. It is therefore, not necessary to examine that part of the management contention that they have faithfully and honestly implemented the terms of settlement, in letter and spirit. In my opinion, the management is not justified, in view of the law laid down by the Supreme Court, in denying equal conditions of wages and not paying Franking Machine operator allowance to those who were operating the same but not governed by the settlement on 14th March, 1986.

7. It was urged on behalf of the Bank of Maharashtra by Mr. Nayak that neither the Sastri Award nor Desai Award provided for payment of such allowance and the memorandum of settlement dated 14th March, 1986 and also other Bi-partite Settlements did not provide for it. It is because that the Awards and Settlements did not provide for such payment of allowance that the Federation had to make demand, raise a dispute which has been sent for adjudication. The point that has to be examined is with regard to the justness of the action of the management in refusing grant of special allowance for Franking Machine operators who are not covered under the settlement dated 14-3-1986. As I have observed above this action is not just and fair and also not in keeping with the law laid down by the Supreme Court.

8. On behalf of the management Mr. Nayak urged that the settlement of 14th March, 1986 provided for restoration of allowance to those who were getting it before and it had no nexus to the performance of duties as Franking Machine operators. I am unable to agree with this submission. Though para 1 says that the management agrees to continue the payment of Franking Machine allowance to all the persons whosoever were getting to hitherto before it cannot be read in isolation. The memorandum of settlement will have to be read as a whole. The short recital of the case mentioned at the outset clearly stipulates that the demand was in respect of the allowance being paid by the management for the last 20 years to the subordinate staff who were handling Franking Machines and which allowance was illegally withdrawn. Therefore, the restoration of the allowance to the persons whosoever were getting hitherto before implies that they were operating Franking Machines and getting allowance for that. Apart that it will not be in my opinion, open to those who are not operating Franking Machines to claim such an allowance nor for the Federation to ask for the same on their behalf. It is in this connection that the Bank's contention arises in the written statement that the allowance is not paid where either the machines are not operated by subordinate staff employees or the machines are out of order/not in use that requires consideration. Even by this award, though I accept the contention of the Federation that the allowance must be paid to the members of the sub-staff operating Franking Machine allowance even when they are not covered by the memorandum of settlement dated 18th March, 1986. Bank cannot be directed to be paid to those who are not operating or not called upon to operate the Franking Machines for one reason or the other. The allowance goes with the performance of the duties. While passing therefore, the award and giving relief to the concerned workmen I would say that this relief would go to all those who are operating the Franking Machines.

Award accordingly.

R. G. SINOHAKAR, Presiding Officer

नई दिल्ली, 19 मई, 1995

का.आ. 1676.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स राजस्थान कन्स्ट्रक्शन कं. प्राईवेट लिमिटेड के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, बम्बे 1 के संवैधानिक प्रकाशित करती है, जो केन्द्रीय सरकार को 19-5-95 को प्राप्त हुआ था।

[संख्या एल-31011/6/86-डी IV(ए)]

डी. एम. डेविड, हेड अधिकारी

New Delhi, the 19th May, 1995

S.O. 1676.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Rajasthan Construction Co. Pvt. Ltd., and their workmen, which was received by the Central Government on 19-5-95.

(No. L-31011/6/86-D.IV(A))

B. M. DAVID, Desk Officer.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

#### PRESENT :

Shri S. B. PANSE.—Presiding Officer.

REFERENCE NO. CGIT-2/34 OF 1987

Employers in relation to the management of M/s. Rajasthan Construction Co. Pvt. Ltd.

#### AND

Their Workmen.

#### APPEARANCES :

For the Employers.—Mr. S. G. Dhutia, Advocate.

For the Workmen.—Mr. S. R. Wagti, Advocate. Bombay, dated 20th April, 1995.

#### AWARD PART-II

On 11-8-89 my Predecessor passed award part I and answered issue No. 2 that the Central Government is the appropriate Government in the authority of the Present reference. Later on the matter was adjourned from time to time for recording clarification of the parties for answering the remaining issues. Now the issues which are to be answered and my findings thereon are as follows :—

Issues	Findings
1. Whether the termination of services of the three workmen S/ Shri O. N. Pandey U. K. Singh and S. P. Shukla by M/s. Rajasthan Construction Co. Pvt. Ltd., Bombay without holding any enquiry against them is improper and bad in law ?	No
2. Whether the said company proves that the termination of the service of the said three workmen was by way of retrenchment only ?	Yes
3. Whether the said three workmen are entitled to reinstatement in service ?	No
4. To what other relief the said workmen are entitled ?	entitled to retrenchment benefits
5. What Award ?	As per order below

### REASONS

2. In short, the facts of this case can be summarised as follows. The workman Pandey joined the services of M/s. Rajasthan Construction Co. Pvt. Ltd., Bombay on 1-6-74. Mr. V. K. Singh and Shri S. P. Shukla were in the services of the Company from 1-1-1981. But the services of these workmen were terminated from 15-4-1985. It is undisputed that their services were terminated without holding any proper enquiry. They claimed that the alleged notice of retrenchment is by way of punishment and ulterior motive. While giving such a notice there is no compliance of the provisions of law. It is also alleged that no domestic enquiry was held against them while terminating their services. On its basis they raised an industrial dispute which came to be referred to the Tribunal.

3. The Rajasthan Construction Company filed its written statement denying all the contentions of the workman. It is alleged that there was no need to hold a domestic enquiry against the workman as they were retrenched. The procedure required for retrenchment was followed by the Company and the workmen were offered their due dues but they refused to accept it with an ulterior motive. It pleaded that as they were terminated by way of retrenchment there was no need to hold a domestic enquiry. It is submitted that there is no substance in the claim of the workman.

4. M/s. Shri Digvijay Cement Company Ltd. filed its written statement at exh 3 contending that they had no concern with those workers. They are engaged by Rajasthan Construction Co. P. Ltd., Bombay, which had terminated their services. It is averred that the reference is totally untenable, so far as the Company is concerned.

5. Shri Som Prakash Shukla and Shri Onkar Pandey (exh. 13) examined themselves to support their claim. As against that Shri Krishnakumar Daga (exh. 16) examined himself for the Rajasthan Construction Co. P. Ltd. and Mr. R. D. Bhunjhai (exh. 23) the manager of Digvijay Cement Co. Ltd. lead the evidence for the said Company. The parties have produced documents on the record in respect of the claim. It is not in dispute that all these 3 workers were employed by Rajasthan Construction Co. P. Ltd. These workers were to look after the job of loading and unloading of clinkers at Bombay Docks. The clinkers were made for M/s. Digvijay Cement Co. Ltd. and the Rajasthan Construction Co. P. Ltd. was given contract of loading and unloading of clinkers by M/s. Digvijay Cement Co. Ltd. (exh. 14/5 & 16). Shri Daga (exh. 16) affirmed that the Company was exclusively engaged for the work of supervising and looking after the job of loading and unloading and transporting of clinkers at Bombay Docks. The Company had no other contract or any other work from any other company except that of Digvijay Cement Co. Ltd. There is no evidence to show that the said company had any other contract, or that before doing any other work to facilitate their workers to do the work.

6. It is not in dispute that M/s. Digvijay Cement Co. Ltd. by its letter dated 26-3-1985 (exh. 13) terminated the contract of M/s. Rajasthan Construction Co. P. Ltd. As this is so there was no work left for the workers employed by the Company.

7. K. K. Daga affirmed that they were having a total number of 7 employees in the service. It is tried to argue that this submission is false one because before the Labour Commissioner it is reported that there were 14 workers working with them. It appears that the statement made by Daga is wrong. But the fact remains that the Company retrenched the services of in all 7 workmen by its notice dated 15-4-1985. This notice was displayed in the notice board. The notices are at exh. 7/1, 7/2 & 7/3. It is clearly mentioned in all these notices the reason for retrenchment. It is mentioned therein that M/s. Digvijay Cement Co. Ltd. has terminated their contract and as there is no other work the services of the workmen are terminated. In the said notice the pay in lieu of notice and the retrenchment compensation is given. In the written arguments it is tried to submit that the calculation is incorrect. On the other hand the management argued that in the statement of claim there is no such mention and while deciding this matter the Tribunal cannot look into it. I find justification in the same. This is because an opportunity has to be given to the management to show that the compensation which they were given by notice was adequate.

8. It is not in dispute that the retrenchment notices were served with the workman and they received the same. But it is a fact that when the money orders of the retrenchment compensations were sent to them they refused to accept it. It might be with some ulterior motive.

9. The management had produced along with exh. 7 a copy of letter dated 15-4-85 bearing form No. 24 sent to the Secretary of Maharashtra Industrial and Labour department along with statement of reasons under rule 80 of the Industrial Disputes Act of 1947 (exh. 7/4). It has also produced an order of the forum sent by the Secretary, Industrial and Labour department Government of Maharashtra under clause 25(F) of the Industrial Disputes Act of 1947 under rule 80 dated 5-4-1985 exh. 7/5 copy of the department sent under clause 'C' rule 76 of the act and rule 25(F) of the Industrial Disputes Act of 1947 to the Secretary, Government of India, Ministry of Labour, New Delhi, (exh. 7/6) a copy of the letter dated 9-7-85 addressed to the Secretary, Government of India, Ministry of Labour, New Delhi (exh. 7/7). These documents clearly go to show that the management was strictly followed the procedure laid down in retrenchment.

10. Onkarnath Pande (exh. 13) in categorical terms had admitted that the work of unloading of Digvijay Cement Co. Ltd. was done by Rajasthan Construction Co. Ltd. and no other Company. As this is so now the burden is on the workman to prove that even though their contract was terminated by Shri Digvijay Cement Co. Ltd. the management had thought of allotting the work to these workers. As there is no evidence the reason given

in the retrenchment notice are true and correct. The witness had also admitted that the factory of Digvijay Cement Co. was at Sewri and is closed down where they used to transport the goods. He had affirmed that he wanted reinstatement in services with full back wages but he has already stated that he had no complaint if he is paid his legal dues in the matter. So far as Omparkash Shukla is concerned, he had not lead the evidence to show that the company had any other work to allot to him. He had also not given any basis to the company showing that the reasons given in the retrenchment notice are not correct.

10. So far as Singh is concerned, he had no burden before the Tribunal to lead evidence and his affidavit (exs. 12) which was already filed was treated as cancelled one. Shri Baga had affirmed that now he is the only person working in the Rajasthan Construction Company and it is tried to argue that he is deposing falsely but for that purpose there is no evidence.

11. It is tried to suggest in the cross-examination of Daga that the services of these workers were terminated because the other workers who were doing the work of unloading and loading had stopped from 18-2-85. This suggestion was denied. It is admitted position that no domestic enquiry was held against these workers. It is tried to argue on behalf of the management that it is so because they were retrenched. It is on that basis a stigma was given to these workers and they were terminated from the services without following the principles of natural justice. It is from the earlier discussion very clear that these workmen were terminated by way of retrenchment and not by way of any other reason. As this is so there was no need to hold a domestic enquiry against the workman. I have also come to the conclusion from the above said discussion that there is nothing on the record to show that the retrenchment was improper. As such these workers are not entitled to reinstatement.

12. It can be further seen that at that time 7 workers who were working in the Rajasthan Construction Co. P. Ltd. were issued the notices of retrenchment. Out of those 7 workers 4 have accepted the notices and their retrenchment compensation. That also support the case of the management that their action is full justified.

13. From the Money Order coupons on the record it reveals that Rajasthan Construction Co. P. Ltd. has sent money orders to those workers so far as the retrenchment compensation and notice pay Rs. 3405.90 were sent to V.K. Singh. Rs. 6579.60 was sent to Onkar Pande and Rs. 3405.90 was sent to Shukla and they refused it. Now that amount is with the management. They have used it. Looking to these peculiar circumstances the

workers are entitled to a reasonable rate of interest on the amount I intend to grant 6 per cent interest p.a. on that amount from 15-4-85. For all these reasons I record my finding on the points accordingly and pass the following order :

### ORDER

1. The action of the management of M/s. Rajasthan Construction Co. P. Ltd., Bombay in terminating the services of S/Shri O.N. Pandey, V. K. Singh and S. P. Shukla Delivery Clerks without holding any domestic enquiry etc. w.e.f. 15-4-85 is justified.
2. The management is directed to pay Rs. 3405.90 to V.K. Singh, Rs. 6579.60 to Mr. Onkar Pande and Rs. 3405.90 to Mr. Shukla with 6 per cent interest p.a. on the respective amounts from 15-4-85 till-to-day. It is further directed that the management has to pay this amount within one month from today failing which they are liable to pay 12 per cent interest p.a. on the said amount.
3. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 19 मई, 1995

का.आ. 1667.--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार पोस्ट आफिस के प्रबंधन के संबंध निर्योक्तों और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करने हैं, जो केन्द्रीय सरकार को 17-5-95 को प्राप्त हुआ था।

[संख्या एन-40012/186/92-आईआर(डीयू)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 19th May, 1995

S.O. 1677.--In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure. in the industrial dispute between the employers in relation to the management of Post Office and their workmen, which was received by the Central Government on 17-5-95.

[No. L-40012/186/92-IR (DU)]

K. V. B. UNNY, Desk Officer

## ANNEXURE

नई दिल्ली, 22 मई, 1995

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR(M.P.)

Case Ref. No.CGIT/LC(R)(11)/1994

## BETWEEN

Shri M. L. Sahu, represented through the Secretary, Rashtriya Dak Karamchhari Sangh C/o Shri M.L. Jain, near panchaati Mandir, Shahdol (M.P.).

## AND

The Supdt. of Post Offices, Raigarh Division, Raigarh (M.P.).

## PRESIDED IN :

By Shri Arvind Kumar Awasthy.

For Workman : None.

For Management : Shri Iqbal Ahmad.

INDUSTRY : P&amp;T DISTRICT : Shahdol (MP)

## AWARD

Dated : April, 27 of 1995

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. L-40012/186/92-IR(DU) dated 10-1-1994, for adjudication of the following industrial dispute :

## SCHEDULE

“Whether the action of Supdt. of Post Offices, Raigarh Division, Raigarh in issuing charge-sheet to Shri M.L. Sahu, Postman Ambikapur vide Memo No. F. 5-1/79-80/D/II dated 12-12-91 for alleged misconduct committed in the month of March'80 and for which criminal proceedings are pending in the Court of Law is legal and justified ? If not, to what relief the workman is entitled to ?”

2. Workman has neither filed the statement of claim nor appeared inspite of the repeated notices sent to him. Management has also not filed the statement of claim.

3. It appears that the workman is not interested in pursuing the dispute. No dispute award is therefore passed without an order as to costs.

ARVIND KUMAR AWASTHY,  
Presiding Officer

का.था. 1678.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अंगुष्मण में, केन्द्रीय सरकार कन्टोनमेंट बोर्ड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई नं. 1 के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-5-95 को प्राप्त हुआ था।

[संख्या एल-13012/6/90-आईआर(डीयू)]  
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 22nd May, 1995

S.O. 1678.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay No. 1 as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Cantonment Board and their workmen, which was received by the Central Government on 19-5-1995

[No. L-13012/6/90-IR(DU)]  
B. M. DAVID, Desk Officer.

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, BOMBAY

## PRESENT :

Shri Justice R. C. Sindhakar, Presiding Officer.  
Reference No. CGIT-50 of 1991

## PARTIES :

Employers in relation to the management of  
Cantonment Board, Ahmednagar.

## AND

Their Workmen.

## APPEARANCES :

For the Management.—Shri A. N. Kulkarni,  
Advocate.

For the Workman.—Miss Moosa, Advocate.

INDUSTRY : Cantonment STATE : Maharashtra  
Bombay, dated the 3rd of May, 1995

## AWARD

Government of India Ministry of Labour has by letter dated 3rd of June, 1991 referred for adjudication under Section 10(1)(d) read with 2A of the Industrial Disputes Act, 1947 dispute mentioned in the schedule below :

## SCHEDULE

“Whether the action of the management of Cantt. Board, Ahmednagar in terminating the services of Shri P. S. Salvi, X-ray Asstt. w.e.f. 10-10-1979 and not condoning the break in service from 11-10-1979 to 31-5-1982 when he was again appointed on regular basis and not paying him the salary

of X-ray Asstt. and Laboratory technician for the period from 1-7-1978 to 31-7-1988 alongwith all other allowances is justified? If not, what relief the workman concerned is entitled to?"

2. This reference was answered and disposed off by an order dated 13th of May, 1993. However that order was set aside after an application for setting it aside was filed (Misc. Application No. 1 of 1993) and granted. Statement of claim has then been filed.

3. Pursuant to an advertisement issued in the local newspaper the employee Shri Salvi applied for the post of X-ray Assistant on 1-12-1977 & he was the only candidate applying. He was interviewed on 7-2-1978 and the matter was placed before the Cantonment Board in which the Board approved and resolved that Shri Salvi be appointed as X-ray Assistant. Accordingly appointment order was issued and he was asked to join on 1st of March, 1978. It is his case which is denied that he was further asked to carry out all Laboratory procedure so as to act as laboratory technician.

4. He joined duties but at that time X-ray plant was out of order and an engineer from Siemens Company from Bombay was asked to look after it. Repairing work required about 6 or 7 months as that included repair by a mechanic from Pune of another part of the same machine. The workman was, therefore, asked to work in the meanwhile in the Military hospital Ahmednagar in the morning shift partly in X-ray department and partly in laboratory department. During the evening shift he used to work in Cantonment General Hospital Ahmednagar in the dispensary where also a few laboratory tests were done by him. There was also a deficiency in laboratory equipments & took about 8 or 9 months for both the department to resume normal functioning. He however thereafter continued to work to the satisfaction of his superiors.

5. He was served termination order on 10th of October, 1979 without assigning any reasons. An advertisement was thereafter issued by the Board inviting applications for X-ray Assistant. There was no response and the Board was unable to find a suitable person to man the post and requested the workman to continue to serve on "daily wages" at Rs. 12 per day. Matter was referred to the then commandant and the Director Southern Command and Cantonment was requested to issue re-appointment orders. No objection was issued for re-appointment with the conditions namely: (1) The post for an X-ray Assistant be re-advertised in a local newspaper. (2) The person concerned should come through the Employment Exchange "with no objection" of the Employment Exchange if he was over age. It took 2 to 3 years and the Cantonment Board issued an advertisement in the local newspaper to which again there was no response except from one person who was again unqualified.

6. The conditions mentioned above were fulfilled and the Director of the Southern Command had no objection to the re-appointment of the workman from the date of termination. The workman was not

treated as a regular staff. He suffered financial loss and though he came to be re-appointed his services were not confirmed even after repeated applications and reminders. He mentions in his statement of claim the problems he faced and they are enumerated from 'a' to 'f' in para 7.

7. He, therefore, prayed that he be given the pay scale of the workman for the period of his employment in accordance with scale applicable to the laboratory technician, that he be paid house rent allowance for the period between 10-11-1979 and 1-12-1981, that he be reimbursed uniform allowance, that he be paid overtime for the overtime work put in on holidays, that the break in service be condoned and lastly he be given the benefit of revised salary.

8. Written statement has been filed on behalf of the management. It is submitted that the board is a statutory creation of the Act and the service conditions of employees of the various boards in India are governed under the statutory rules namely Cantonment Fund Servant's Rules, 1937 as amended from time to time. There is also in addition a memorandum of settlement as agreed to by the representatives of the employers and their workmen executed on 13-5-1969. The administrative and financial control is exercised by the General Officer Commanding in Chief Southern Command, Pune. In short the management has to act under the statutory provisions and not over the statute itself.

9. It is contended that it will have to be examined whether it is a reference under Section 10 or under Section 2A of the Industrial Disputes Act, 1947.

10. It is admitted that he was appointed as an X-ray Assistant in the Cantonment General Hospital, Ahmednagar w.e.f. 1-3-1978 on temporary basis for a period of 6 months in the pay scale Rs. 130-5-150-8-190-EB-10-300 plus allowances as admissible. It was made clear in the order of appointment that his services will be governed by the Cantonment Fund Servant's Rules 1937 as amended from time to time and also made clear that if the offer is acceptable he should join the duty. In the Office order it was also clearly stated that the sanction for the post was for a period of six months from the date of appointment and that the services were purely temporary and liable to be removed at any time with 24 hours notice and without assigning any reasons whatsoever if no longer required by the Competent Authority and his case was turned down by the higher Authority due to over age. Relevant rule has been quoted with regard to the termination of service.

11. It is denied that he was asked to carry out laboratory procedure or to act as laboratory technician because there was no laboratory in the Cantonment General Hospital.

12. It is denied that the machine repairing work has been done for a period of about 6 to 7 months. His working in shifts is denied.

13. The justification for termination of services given is that his appointment was purely temporary for a period of six months and he accepted the same and the rules permitted termination and there was nothing illegal about it. It is admitted that the

Board had to issue an advertisement and there was a response from one person to the said advertisement for the post of X-ray Assistant. However it is denied that the management was not able to find out a suitable person for the post and it is further denied that the workman was requested to continue on daily wages of Rs. 12/- Case is that the workman approached the then Cantonment Executive Officer of the Board and prayed that he be appointed on daily wages till they get a suitable X-ray Assistant and under these circumstances he was appointed on daily wages vide officer letter dt. 12th of November, 1979 that was also in response to the offer made to him which he accepted and reported on duty on 10-11-1979 and remained on daily wages services till 31-5-1982.

14. It is admitted that his case was referred to the Director Defence Estate Southern Command Pune. The matter should have been referred to the General Officer Commanding In-chief Southern Command Pune as he was the only Competent Authority to decide as per the provisions of the law. The director is not empowered to take decisions on the proposal submitted to the General Officer Command in-chief nor is there any enabling provision in the Cantonment Act to delegate power of the General Officer Commanding in-chief Southern Command Pune to any Officer of the defence estate services. It is admitted that the director was requested to issue re-appointment order but it is contended that he is not the employer of the said workmen and therefore the director defence estate could not competently pass an order for re-appointment and/or appointment. Besides there is no such provision of re-appointment of person in the services of the Board. It admitted that the Board issued an advertisement in the local newspaper and the person responding was unqualified as was the present workman Shri Salvi.

15. It is contended that he was never on probation at any time and therefore there was no question of treating him as a regular staff. It is also denied that he suffered financial loss and was not confirmed for 9 years.

16. Reference to the memorandum of settlement is made and it is said that it is binding on the authorities and workman.

17. With regard to the claim of wages on par with the State Government post it is submitted that the person must possess the requisite qualifications technical and academic. If not he will continue to draw the pay scale to which he was entitled according to the National Industrial Tribunal Award. With regard to the various items in para 7 reply is given in para 11 of the written statement. Jurisdiction is also challenged on the ground that the appropriate forum could be the one under the provisions of minimum wages Act, 1948. This would be a case of potential wages and therefore outside the purview of the Industrial Disputes Act. Even otherwise it is submitted that the claim is not established. He also cannot claim according to the management condoning

the break nor benefit of revised pay scales. On behalf of the workman the workman filed an affidavit and he has been cross-examined on behalf of the management by the Learned Advocate appearing for it.

18. The reference made to this Tribunal for adjudication as mentioned in the schedule consists of dispute on 3 points. One is with regard to the termination of the services of Shri Salvi X-ray assistant w.e.f. 10/10/1979 the 2nd is with regard to not condoning the break in service from 11-10-1979 to 31-5-1982 and the 3rd is for not paying him the salary of X-ray Assistant for the period on 1-7-1978 to 31-7-1988 alongwith allowances.

19. The admitted position is that the Cantonment Board needed the services of an X-ray Assistant and wanted to fill the post sanctioned by the General Officer commanding in-chief Southern Command Pune and conveyed under letter dt. 29th of June, 1977 that was created for a period of six months from the date of appointment and in the scale of 130-5-150-8-190-EB-10-300 + admissible allowances. Shri Salvi the workman was the applicant and was offered that post w.e.f. 1/3/1978 after an interview and selection. He was also found medically fit and he was asked to joint and he did joint the post. It is thereafter that he continued to work as X-ray Assistant and the letter of appointment is dt. 27th of February, 1978. It mentions that he has been appointed for a period of six months in the first instance, has been found medically fit on Rs. 130/- in the scale of Rs. 130-300 + allowances. He was also told that he would be governed by the Cantonment Fund Service Rules, 1937. Thereafter on 10th of October, 1979 (Ex. 'W-3') his services were terminated by giving him one month's notice w.e.f. 10th of November, 1979, was directed to handover charge on that day. On 12th of November, 1970 he was informed that he was being appointed on daily wages of Rs. 12/- per day and asked whether he was willing to accept this offer immediately. It is evident that he accepted the said appointment and continued to work till another letter Ex. W-7 dt. 11th of June, 1982 was given to him informing him that he was appointed on 1/6/1982 in the scale of pay Rs. 290-540 + allowances as X-ray Assistant. That would be on probation for a period of 2 years from the date of appointment and the conditions mentioned in para 3 of the said letter. On 12th of August, 1987 (Ex. 'W-13') he was informed that he will be completing the age of 58 years on 9-7-1988 and as such attain the age of superannuation on the same date and in view of that he was informed that he would retire from the service of Cantonment Board w.e.f. 31-7-1988 afternoon in accordance with the rules in force and directed to handover the charge.

20. Grievance of the workman is that he was appointed in a scale of pay. That post was sanctioned and filled in after taking an interview. Though it was initially sanctioned for six months the present incumbent continued to work on that post beyond the period of six months till his services were terminated without assigning any reasons w.e.f. 10th of November,

1986. He was asked to work thereafter on daily wages and discharge the same duties as he was discharging as X-ray Assistant. That he continued to do till he was given a regular appointment in June, 1982 on the same post w.e.f. 1-6-1982 for the intervening period there was no justification for not continuing him on that post in the regular scale. It is obvious that the Board needed the services of an X-ray Assistant and asked the present workman to continue. At Ex. 'W-5' is a reply given by the General Officer Commanding in-chief to the President Cantonment Board that the department had no objection for the continuation in services of Shri P. S. Salvi as X-ray Assistant w.e.f. 10-11-1979 under the Board. However the Board was advised to obtain no objection certificate from the regular employment exchange and publish an advertisement of the said post in daily news-paper. From Ex. 'W-6' letter dt. 1st of September, 1981 it is seen that Shri Salvi's name has been sponsored by the District Employment Officer Ahmednagar for appointment as X-ray Assistant in the Cantonment General Hospital in the scale of any Rs. 290-540 + admissible allowances. He was asked to call at the office on 10-9-1981 for interview by the committee with original certificate of proof of age. It appears that thereafter letter of appointment dt. 11th of June Ex. 'W-7' was sent to him. In fact Ex. 'M-6' is a letter dt. 12th of March, 1979 addressed to the President Cantonment Board from the General Officer Commanding in-chief according sanction for the creation of a post of X-ray Assistant permanent post in the scale of Rs. 290-540 + usual allowances w.e.f. 1st of September, 1978. Therefore the sanction was asked for by letter dt. 15th of February, 1979 by the Cantonment Board President and has been accorded w.e.f. 1st of September, 1978. Therefore there could have been no difficulty in accommodating Shri Salvi the workman in that sanctioned post in which he was appointed initially w.e.f. 1st of March, 1978 for a period of six months as that post then created was for a period of six months and then continuing him in the said post as sanction asked for was received and that too w.e.f. 1st September, 1978. The sanction has been accorded under rule 47 read with rule 19(b) of the Cantonment Account Code 1924. This was for the creation of the post of X-ray Assistant on permanent basis. It was not necessary therefore to deny him the benefit of wages in the regular pay scale with allowances and pay him only daily wages for doing the same work. In fact on 7th of October, 1978 by Ex. 'M-2' itself the President of the Cantonment Board had requested for sanction for continuation of a permanent post w.e.f. 1-9-1978.

21. The management's contention is that the President under rule 9 of the Cantonment Funds Servant's Rule can sanction a temporary post for aggregate period not exceeding six months and also report to the Officer Commanding in-chief about it and if the approval is withheld the appointment shall be terminated forthwith. Here I find that the post was not created by the President Cantonment Board. It was sanctioned by the General Officer Commanding in-chief Southern Command. Therefore rule 9 to which reference is made is inapplicable. In para 8 management is contending that it offered appointment on daily wages to the workman because of his entreaties. There is nothing to show that in the letter addressed.

On the contrary the management makes an offer of appointment on daily wages and asked him whether he was agreeable to accept. If it was the other way it would have been mentioned in the letter that he was offering to work on daily wages and the management was agreeable to it. Ex. 'W-4' therefore belies that contention. It is also evident from the letter addressed by the President to the Officer Commanding that the President Cantonment Board really needed the services of X-ray Assistant badly & board had passed a resolution at the Board meeting for continuance of the post on permanent basis. Para 4 of that letter speaks for itself.

22. The management has thereafter contended that the case ought to have been referred to the General Officer Commanding in-chief Southern Command as he was the only Competent Authority to decide as per the provisions of law laid down. The director is not the Competent Authority nor could he delegate his power to anyone not even to the Director Defence Estate Service. I find that the communications on record are addressed by & to the General Officer Commanding in-chief. I see no point or merit in this contention.

23. The next contention is that the appointment was for a limited period and therefore the workman cannot complain of termination. In this connection judgement of the Supreme Court reported in 1976 1 LLJ page 478 in the case between State Bank of India and Sundarmorey is referred to. Therein the point as to whether the action of the management resulted in retrenchment was considered and emphasis has been laid on the words "for any reason whatsoever" in section 2(oo) of the Industrial Disputes Act. It is held that substance and not form of the order is decisive and in the circumstances of that case there was retrenchment, it is held. It is true that section 2(oo) came to be amended in the year 1984 and clause (bb) is introduced. Termination of the services of a workman as a result of non renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated on the stipulation in that behalf contained therein is not to be covered by the definition of retrenchment. Here is this case before me management does plead that this is a case of appointment for a period of six months and termination after giving him notice after the expiry of period of six months. The period of six months was over on 1st of September, 1978 as he was appointed w.e.f. 1st of March, 1978. However from the service book (xerox copy) it is seen that he was continued after 1-9-1978 and pay scale was fixed at Rs. 290 w.e.f. 1-9-1978. That was the scale sanctioned for that post w.e.f. 1-9-1978. Therefore the management has not terminated the services on the expiry of six months. The question of terminating the contract under stipulation in that behalf also does not arise because the letter of appointment does not state that his services are liable to be terminated on a month's notice. It does mention that the services will be governed by the management service rule 1957 as amended from time to time. However even during the course of the written statement I do not find contention raised that the termination after notice is in accordance with any such rules nor any such rule is pointed out. In fact in the order of ap-



pointment the stipulation that his services are liable to be terminated on a month's notice should have been mentioned. In the office order dt. 12-4-1978 Ex. 'M-1' it has been stated "his services are purely temporary and is liable for removal with 24 hours notice and without assigning any reasons whatsoever if no longer required by the Competent Authority or his case is turned down by higher authority due to over age. This part has not been conveyed to him while giving him a letter of appointment nor was he asked to accept the offer with that understanding. Besides it is difficult for the executive officer of the Cantonment Board to resort to this method of termination because that board is not of the view that his services were no longer required or that his case was turned down by the higher authority due to overage. Cantonment board has passed a resolution stating that his services were needed. Therefore this clause in my opinion could not be invoked and also does not appear to have been invoked.

24. The next result is that Shri Salvi was X-ray Assistant in a post which was sanctioned though initially for a period of six months. The Board terminated his services not at the end of this six months but later by notice in writing asking him to handover the charge a month later and then appointing him on daily wages and continued him on daily wages and thereafter though the post was sanctioned w.e.f. 1-7-1978 as permanent post he was appointed w.e.f. August, 1982 to that post. I find that this action of the management is not justified because they waited for the sanction to come when it was received in 1979 and when they continued his appointment on daily wages they could have surely appointed him to that post because it is found that he was a candidate fit for appointment after an interview, the work was found satisfactory by the person under whom he worked and eventually appointed and continued till the date of super annuation and could not find any other candidate to replace him inspite of attempts to get one by advertising the post. He would be naturally entitled to the benefit of the pay scale which was applicable to that post of X-ray Assistant. The management will have to pay the difference of wages to which he would be entitled in the pay scale and the wages actually paid to him.

25. The contention of the workman is that he was also asked to look after the work of laboratory department and therefore was also entitled to the pay scale of that post. There is no satisfactory evidence on the point except his word and though he was asked to carry out while appointing him by letter Ex. 'W-2' of 28th of February, 1978 he was told that in addition to his duties as an X-ray Assistant he will also be required to do all pathological investigations in the Cantonment General Hospital. However that will not go to show that he would be entitled to additional remuneration for that work which he did.

26. His next claim is for pay scale to the employees on the establishment of the State Government. However that is subject to the fact that he possesses those qualifications. He admits that he was not a graduate in Science though he stated so in his

affidavit. He therefore did not possess those qualifications and therefore obviously not entitled to that pay scale. Correspondence in that behalf is placed on record that is between the Cantonment Board and the Civil Surgeon.

27. It was then contended that he is entitled to the house rent allowance. The general direction is that he will be entitled to all the emoluments as well as the allowances which he would have been entitled to had he been continued in that post in the pay scale prescribed for it ignoring the order of termination being passed and ignoring the order of appointment on daily wages. That would include house rent allowance. If he is entitled to uniform allowances or reimbursement for the expenses incurred for the uniform he will be also entitled to that. It would not be possible at this distance of time to direct the management to ascertain his overtime work done by the workman during the Holidays. Since he is continued in service in regular pay scale in spite of the termination order he will not be deemed to be having a break in service for the intervening period between 10-11-1978 till 1st of June, 1982 when he came to be again appointed.

28. One of the contentions is that the reference does not say whether it is under section 2A or under section 10(1)(d) of the I.D. Act, 1947. It is not so. The reference does say that the Central Government in exercise of its powers conferred by clause (d) of sub-section one and sub-section 2A of section 10 of the I.D. Act, 1947 that the dispute for adjudication is being referred. Section 2A says that where any employer discharges, dismisses, retrenches or otherwise terminates the service of an individual workman in dispute or difference between that workman and its employer connected with or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an individual dispute notwithstanding that no other workman nor any union of workman is a party to the dispute. (underlining is made for emphasis) Here is a case of termination if not retrenchment and therefore when there is a dispute and such an order is challenged the same could be one under section 2A. Section 10(1)(d) also contemplates a reference of a dispute to a Tribunal and that dispute must be an Industrial Dispute. Read with Section 2A this will be an Industrial dispute referred for adjudication and therefore capable of being adjudicated by this Tribunal. In this case the principle dispute is over the termination of his services w.e.f. 10-10-1979. Whether that is justified or not is to be examined and adjudicated upon. There can be, therefore, no difficulty in holding that this Tribunal has the jurisdiction to adjudicate upon this dispute referred to it.

29. On merits it cannot be disputed that the management issued an advertisement appointing Shri Salvi in the year 1978 to the post of X-ray Assistant and he continued to work as such till his retirement, notwithstanding his termination in the year 1979 appointment on daily wages immediately thereafter on the following day and appointment in regular post in 1982. The management could not find any other person for appointment to that post. The Cantonment Board's action in continuing Shri Salvi on the post has been also approved of by the Officer



in Command Southern Division who by letter dt. 3rd of October, 1981 Ex. 'W-5' had informed the President Cantonment Board with reference to CO's letter dt. 5th of September, 1990 that the department had no objection for the continuation in services of Shri P. S. Salvi X-ray Assistant w.e.f. 10-11-1979 under the Board. In the circumstances the management's action in denying the benefit of pay scale of an X-ray Assistant Shri Salvi for the period of 10-11-1979 till 1-8-1982 was not justified.

30. The other grievance is about the non-payment of the scale of laboratory technician for the period 1-7-1978 to 31-7-1988. I have already observed that he was appointed as X-ray Assistant and not Laboratory Technician. The letters of appointment clearly got show that. He is, therefore, not entitled in my opinion to pay scale prescribed for laboratory technician. He was also not qualified for appointment and consequently for the payment according to that scale. He has been also informed accordingly by letter dt. 2nd of February, 1984 by the Cantonment Executive Officer. The qualification prescribed have been intimated by the Civil Surgeon, Ahmednagar by letter dt. 29-12-1983 Ex. 'M-4'. The scale he was entitled to was 290-10-390-15-465-extension-15-540. His service book shows that he was placed in the X-ray Assistant scale w.e.f. 1-9-1978 and he will be entitled to wages in that scale with allowances to which he is entitled.

Award accordingly.

R. G. SINDHAKAR, Presiding Officer

नई दिल्ली, 23 मई, 1995

का.आ. 1679.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-95 को प्राप्त हुआ था।

[संख्या एल-12012/23/91-आई.आर. (बी. 2)]

वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 23rd May, 1995

S.O. 1679.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workmen, which was received by the Central Government on 22-5-1993.

[No. L-12012/23/91-IR-(B-II)]

V. K. SHARMA, Desk Officer

## ANNEXURE

BEFORE SHRI M. S. SULLAR, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. ID 138/91

Jugal Kishore Vs. Syndicate Bank  
For the workman: None.  
For the management : Shri Gopal Mahajan.

AWARD :

Dated, the 6th April, 1995

In the wake of industrial dispute raised by Jugal Kishore U/S 10 of the Industrial Disputes Act 1947, hereinafter to be referred as the Act, the Central Govt. vide No. L-12012/23/91-IR-BII dated 30-9-91, has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Syndicate Bank in terminating the services of Shri Jugal Kishore, Pigmy Agent is justified ? If not, to what relief is the workman entitled?"

2. The bare persual of the record of the case would go to show that the petitioner has already moved applications for withdrawing the present reference petition. Even in the wake of notice, issued by this Tribunal, the petitioner has sent another application requesting this Court to close his case. I have gone through the contents of the applications of the petitioner and it is clear that the petitioner is not interested in prosecuting the case and wants to close the case. Since the petitioner is not interested so, in this view of the matter and in view of the written applications of the, no dispute remains to be resolved. Consequently, the reference petition is hereby declined. Appropriate Govt. be informed. Chandigarh.

6-4-95

M. S. SULLAR, Presiding Officer.

नई दिल्ली, 23 मई, 1995

का. आ. 1680.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल. आई. सी. ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक प्राधिकरण, चण्डीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-95 को प्राप्त हुआ था।

[संख्या एल-12012/49/91-आई.आर. (बी. 2)]

वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 23rd May, 1995

S.O. 1680.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of L.I.C. of India and their workmen, which was received by the Central Government on 22-5-1995.

[No. L-17012/49/91-IR-(B-II)]  
V. K. SHARMA, Desk Officer

#### ANNEXURE

BEFORE SHRI M. S. SULLAR, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. I. D. 48/92

Mohan Lal Sharma -Vs.- Life Insurance Corporation of India.

For the workman—Shri Vaneesh Khanna.

For the management—Shri B. R. Mahajan.

#### ORDER

Dated, the 6th March, 1995

Petitioner M. L. Sharma was appointed as probationary development officer. The services of the petitioner were terminated on 29/30-8-90. The petitioner has challenged his termination by way of the present reference :

2. In the wake of industrial dispute raised by the petitioner, U/S10 of the Industrial Disputes Act, (hereinafter to be referred as the Act), the Central Government vide No. L-17012/49/91-IR(B-II) dated 10th April 1992, has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Life Insurance Corporation of India in terminating the services of Shri Mohan Lal Sharma is justified? If not what relief is the workman entitled to?”

3. The case set up by the petitioner, in brief, in so far as relevant is that he was selected for appointment as probationary development officer. He completed the apprentice period (training period) of one year and thereafter he was appointed as probationary Development officer w.e.f. 22-5-1989. He worked honestly and sincerely but his services were brought to an end abruptly on 29/30-8-1990 by the respondent management, expiry of period of one year. It is alleged by the petitioner that he had served for more than one year as defined U/S 25B of the Act, when his services were dispersed without notice, without enquiry and without payment of retrenchment compensation etc. He challenged the order of termination before the Punjab & Haryana High Court in CWP 13853/90 which was dismissed on 18-4-1991. It is also alleged that the petitioner is a workman and his termination amounts to retrenchment. The petitioner has challenged his termination mainly on the ground of violation of mandatory provisions of the Act. On the footing of aforesaid pleadings, the petitioner prayed for his reinstatement, with full back wages, continuity of service and all other service benefits, etc.

4. The management has contested the claim of the petitioner and filed the written statement inter-alia pleading certain preliminary objection of mis-joinder and non-joinder of the necessary parties. It is alleged that the services of the petitioner have been terminated for unsatisfactory work, during the period of probation in accordance with the terms of his appointment and his termination of service under a stipulation contained in terms of appointment is not a retrenchment U/S 200 of the Act. Further pleaded case of the management is that, the petitioner was appointed as probationary development officer vide appointment letter dated 4-7-1989. According to clause 2 of the appointment letter, the services of the applicant were liable to be terminated during the period of probation without any notice. He was required to secure minimum business as given in para 10 of the appointment letter, but he failed to achieve the minimum target on all counts as tabulated as under :

	Minimum business target fixed in appointment letter	Revised Business target on revision of pay scales	Business achieved
Completed Life Business	Rs. 32,00,000	Rs. 37,00,000	Rs. 30,19,000
First Year scheduled Premium Income	1,30,000	1,50,000	1,04,763
Number of Lives	160	180	130
Recruitment of Agents	20	20	9
Qualified Agents	9	9	3

5. It is alleged that in accordance with clause 3 of the appointment letter, the petitioner was to be confirmed in service on his satisfactorily completing the period of probation and fulfilling minimum business target. He availed 77 days E.O.L. during his probation and further remained absent for 18 more days during the probation period. Since the performance of the petitioner was not satisfactory during the period of probation, so his services were rightly terminated in terms of his appointment letter. It will not be out of place to mention here, that the management has stoutly denied the other allegations of the petitioner in its written statement. That being so, the management prayed for the dismissal of the reference petition.

6. Controverting the allegations contained in the written statement and reiterating the stand taken in the claim statement, the petitioner filed the replication.

The petitioner, in order to substantiate his claim, appeared as his own witness as WW1, who has tendered into evidence his affidavit Ex. W1. The petitioner has also supplemented the file and relied upon letter dated January 1985, Ex. W2 and letter of the petitioner Ex. W3. The management got proved the copy of appointment letter dated 4-7-1989, Ex. M1, copy of letter dated 7-12-89, Ex. M2, copy of appraisal statement, Ex. M3, and Ex. M4, copy of letter dated 6-12-1989, Ex. M5, copy of letter dated 23-1-90, Ex. M6, copy of letter dated 17-3-90, Ex. M7, copy of letter dated 21-4-90, Ex. M8, copy of letter dated 17-5-90, Ex. M9, copy of letter dated 14-7-90, Ex. M10, copy of letter dated 2-8-90, Ex. M11.

7. The management in order to rebut the oral as well as documentary evidence produced on record by the petitioner examined, R. S. Gupta as MW1, who has tendered into evidence his affidavit Ex. M12 and

appointment letter Ex. M13 and Ex. M14, extracts of rules Ex. M15, copy of appraisal report Ex. M16.

8. Having heard the representatives of the parties having gone through the record of the case and after bestowal of thoughts on the entire matter, in my considered opinion, the reference petition deserves to be declined.

9. As indicated earlier, according to the petitioner, he was appointed as probationary development officer vide appointment letter dated 4-7-89, his services were terminated without following the mandatory provisions of the Act, so he is entitled for reinstatement. He has so, stated in his affidavit Ex. W1. On the other hand, according to the management, since the services of the petitioner were dispensed with in terms of his appointment letter Ex. M1, so his termination is not a retrenchment as defined U/S 200 of the Act and he is not entitled to any relief in this reference petition. The management has filed the affidavit of R. S. Gupta Ex. M-12 in support of its plea.

10. At the out set, to my mind, it would be expedient in the interest of justice to decide the preliminary objection raised by the representative of the management. In this regard, he has contended with some amount of vehemence that admittedly the petitioner was appointed as probationary development officer, so he does not come under the definition of 'workman' as defined under the Act and is not entitled for any relief in the present reference petition. He has placed reliance on a recent judgement of Hon'ble Supreme Court, in case of H. R. Adyanthaya etc., etc. Vs. Sandoz (India) Ltd. etc. 1994(5) Judgments Today 176. Faced with the situation the rep. of the petitioner urged that the petitioner comes under the definition of workman as held by Hon'ble Supreme Court in S. K. Verma Vs. Mehresh Chander & another 1983(3) S.C.R. 799.

11. After hearing the representatives of the parties, at some length and after considering the matter deeply, I can not help observing that petitioner being a development officer, is not a 'workman' as contemplated under the Act and can not claim any relief in the present reference.

12. Identical question was a subject matter before the Hon'ble Supreme Court in H. R. Adyanthaya Etc. case (Supra) in which the implication of S. K. Verma's case (Supra), relied on behalf of the petitioner, was deeply considered. After examining the propositions of law, in various judgements, it has been authoritatively held by the Hon'ble Apex Court that Petitioner (development officer), can not be termed as a 'workman' in the obtaining circumstances of the case. Thus it would be seen that the judgement in S. K. Verma's case (supra) relied on behalf of the petitioner would not come to his rescue. On the other hand, the judgement in H. R. Adyanthaya's Case (Supra) is complete answer to the problem in hand. Consequently it is held that petitioner is not a 'workman' as defined under the Act and he is not entitled for any relief under the Act.

13. There is another aspect of the matter, which can be viewed from another angle. Clause II of the appointment letter Ex. M1 of the petitioner postulates that he was appointed as probationary development officer, initially for the period of 12 months, from the

date of joining duty but the corporation may in its sole discretion extend the probation period and petitioner was liable to be discharged from the service during the probation period without any notice and without cause being assigned. Clause 10 of the appointment letter, Ex. M1 provides that during the said period, he was required to secure the minimum business. Mohan Lal petitioner while appealing as WW1 has categorically admitted that work target allotted was conveyed to him vide letter Ex. M3 and M4. He has also admitted the receipt of letters Ex. M2 to Ex. M11. The bare perusal of the letters Ex. M5 to Ex. M11 would go to show that the petitioner did not secure the minimum required business. He was repeatedly advised to improve his situation, so much so, he remained absent from the head quarter during his probation period. The performance of the petitioner during the probation period was not found satisfactory, so, his services were terminated in terms of para 2 of his appointment letter vide order dated 30-8-1990, Ex. M14.

14. Thus it would be seen that bare perusal of the evidence on record would go to show that petitioner did not secure minimum required business and was guilty of absence from the head quarter. His performance was not satisfactory and his services were terminated in terms of his appointment letter Ex. M1.

15. Now the next question falls for determination is whether such termination would amount to retrenchment Section 2(oo)(bb) of the Act provides that if the termination of service of a workman as a result of non-renewal of contract of employment between the employer and workman concerned, on its expiry or of such contract being terminated under a stipulation in that behalf, contained therein, does not amount to retrenchment. As indicated earlier and taking the risk of repetition, since the services of the petitioner were terminated in terms of the appointment letter Ex. M1, so to my mind, termination would not amount to retrenchment and the petitioner is not entitled for any relief in this reference petition.

16. In the light of aforesaid reasons, thus seen from any angle, it is held that the petitioner is neither a workman nor his termination on account of stipulation contained in the appointment letter, is retrenchment and he is not entitled for any relief in the obtaining circumstances of the case. Consequently, there is no merit in the reference petition, which is hereby declined. Appropriate Government be informed.

Chandigarh,  
6-3-1995.

M. S. SULLAR, Presiding Officer  
नई दिल्ली, 23 मई, 1995

का.आ. 1081.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण 1, हैदराबाद के पंचपट को प्रकाशित, करती है, जो केन्द्रीय सरकार को 22-5-95 को प्राप्त हुआ था।

[संख्या एल-12012/386/92-आई.आर.बी. 2]  
बी. के. शर्मा, डैस्क अधिकारी

New Delhi the 23rd May, 1995

S.O. 1681.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-I, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workmen, which was received by the Central Government on 22-5-1995.

[F. No. L-12012/386/92-IR (B-II)]

V. K. SHARMA, Desk Officer.

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

#### PRESENT :

Shri A. Hanumanthu, M.A., LL.B., Industrial Tribunal-I.

Dated : 16th day of March, 1995

INDUSTRIAL DISPUTE NO. 14 OF 1993.

#### BETWEEN :

Shri P. Narsinga Rao, 2-4-1999, C/o P. Ayyana, Nimboli Adda, Kachiguda, near Mahakali Mandir, Hyderabad.

.. PETITIONER

AND

The Senior Manager, Dena Bank, Bank Street, Hyderabad. .. RESPONDENT.

#### APPEARANCES :

Shri V. Ajay Kumar, Advocate for the Petitioner.

Shri K. Ramulu, Advocate for Respondent.

#### AWARD

This is a reference made under Section 10(1)(d) (2-A) of the Industrial Disputes Act, 1947 (hereinafter called the Act) by the Government of India, Ministry of Labour by its Order No. L-12012/386/92-IR (B-II), dated 1-3-1993 for adjudication of the dispute annexed in the schedule which reads as follows :—

“Whether the management of Dena Bank Hyderabad is justified in terminating the service of Shri P. Narsinga Rao, Cleaner-cum-Sepoy w.e.f. 12-3-1990 ? If not, what relief the workman is entitled to ?”

This reference has been registered as Industrial Dispute No. 14 of 1993. After service of notices, the Petitioner-workman and the Respondent-Management are being represented by their counsel.

2. On behalf of the Petitioner-workman a claim statement has been filed to the following effect. The Petitioner was appointed as Cleaner-cum-Sepoy in the Respondent Bank on 29-3-1974 in a permanent vacancy since then he continuously worked as such till he was asked orally not to come for duty w.e.f. 12-3-1990. The petitioner was interviewed by the

Management along with other candidates in November, 1983 for appointment for the post of Subordinate, the petitioner was selected and he was placed third in the panel list and the Management assured that the petitioner will be appointed in due course as per the panel list and continued to engage him. The Branch Manager of the Bank of the Respondent also recommended the petitioner's name in the panel of list of candidates to be called for future interviews. Instead of appointing the petitioner, the Management terminated his services orally by asking him not to come for duty from 12-3-1990. The Petitioner continuously worked from 29-3-1974, and he worked for more than 270 days in a year continuously. He was paid wages and corresponding bonus for the period he worked in the Bank. The action of the Management in not regularising the services of the petitioner is illegal, arbitrary and the action of the Respondent Bank in orally terminating the services of the petitioner on 12-3-1990 amounts to retrenchment. The Management has given neither notice nor paid the salary in lieu of notice before the said retrenchment. He was not paid retrenchment compensation. Hence the retrenchment is violative of Section 25-F of the I. D. Act. At present there are many existing vacancies of subordinate staff i.e. Cleaner-cum-Sepoy etc. in the Respondent Bank and the Petitioner is entitled for reinstatement with all back wages and consequential benefit w.e.f. 12-3-90 and also for regularisation of his services as Cleaner-cum-Sepoy or any other suitable posts.

3. On behalf of the Respondent-Bank, the counter affidavit of Shri K. V. Shenoy, Regional Manager, Bangalore is filed to the following effect. The petitioner was never engaged in the services of the Bank except for a temporary period for an odd days in the month for purposes of certain jobs as provided under Clause 20.7 and 20.8 of the First Bipartite Settlement dated 19-10-1966 governing the service conditions of Award staff employees in the Bank. Clause 20.7 of the first Bipartite Settlement dated 19-10-1966 empowers the Bank to engage the temporary workman for a limited period of work when (1) it is essentially of temporary nature (2) there is a temporary increase in work of a permanent nature (3) in a temporary vacancy caused by the absence of a permanent workman. The Petitioner was not continuously engaged by the Respondent Bank as alleged in the claim statement. The Petitioner was interviewed by the Respondent-Bank and he was not found suitable in the interview for being empanelled as a Budlee and therefore his name for regularisation cannot be considered. The allegation in the claim statement that the Petitioner was selected and assured that he will be appointed in due course by the Respondent Bank is denied. As and when the full time vacancy in the Subordinate cadre is sanctioned, the same should be filled up by giving preference to the existing part time employees of the Bank as per Para 18.4 of the Bipartite Settlement dated 10-4-1989. The Budlee Sepoy from the panel will be considered for appointment as part-time employee in the order of merit in the panel. The empanelment of budlee sepoy in the panel will be made from the list of candidates given by the Employment Exchange fulfilling the norms of age, qualification etc., prescribed under recruitment norms in the subordinate staff cadre after conducting an interview and when they

are found suitable. The petitioner was never in the service of the Bank and he was engaged for temporary period permitted by the Bipartite Settlement and therefore the question of retrenchment does not arise. Hence the industrial dispute lacks merits and deserves to be dismissed.

4. On behalf of the Petitioner-workman W. W-1 is examined and Exs. W-1 to W-3 are marked. The Petitioner-workman got himself examined as W. W-1 and he deposed to the averments in the claim statement Ex. W-1 is four Pass Books of the petitioner workman for the period from 1-12-1982 to 11-8-90 and the entries in these Pass Books disclose that the Management had credited the wages of the Petitioner-workman to his account. Ex. W-2 is the xerox copy of the letter of the petitioner-workman to the Management requesting to issue him Service Certificate. Ex. W-3 is the xerox copy of the statement showing the number of days he worked in the Respondent-Bank.

On behalf of the Management, no oral or documentary evidence has been adduced. The counsel for the Respondent-Bank cross examined W. W-1.

5. The points for consideration are (1) whether the Management of Dena Bank, Hyderabad is justified in terminating the services of Shri P. Narsinga Rao, Cleaner-cum-Sepoy w.e.f. 12-3-1990.

(2) To what relief the workman is entitled ?

6. POINT (1) :—The learned counsel for the Petitioner-Workman submits that the Petitioner-workman worked in the Respondent Bank from March, 1974 continuously till he was asked not to attend to duty in March, 1990, that the Petitioner-workman worked for more than 240 days continuously and that the Petitioner-workman was not issued notice or pay or wages in lieu of notice and the Petitioner was also not paid retrenchment compensation before his services were retrenched and there is no proper compliance of Section 25-F of the I.D. Act and that the retrenchment of the Petitioner is illegal and the petitioner-workmen is entitled for reinstatement.

7. The Petitioner-workman examined as W. W-1 also stated that he was appointed as Cleaner-cum-Sepoy in the Respondent-Bank in March, 1974, that he was appointed regularly in the year 1978, that he was appointed in the absence of regular employees, that his wages are being credited to his account regularly and that he worked for more than 240 days continuously in a year. It is also in his evidence that he was paid wages per day at Rs. 12.00 till 1980 and thereafter he was paid daily wages of Rs. 18.00. In his cross examination, he denied the suggestion that he did not work continuously. He also admitted that he was interviewed on 23-8-1982, when his name was sponsored by the Employment Exchange for consideration for the post of Cleaner-cum-Sepoy and that he attended second time for the interview in the month of September, 1983 and at that time his name was not sponsored by the Employment Exchange. He also admits that the Regional Manager of Dena Bank informed him on 10-9-1986 that his name cannot be considered as it was not sponsored by the Employment Exchange. He also denied the suggestion that he did not work for 240 days continuously.

8. The burden lies on the Petitioner-workman to prove that he was appointed regularly in the Respondent Bank and that he worked for more than 240 days continuously in a period of 12 months preceding the alleged date of retrenchment. The Petitioner workman filed Ex. W-3 the xerox copy of the statement showing the particulars of days he worked from 1974 to June, 1988. As seen from this document he worked only for few days every month and he never worked continuously. The particulars of the working days of the petitioner for the period from July, 1988 to 12-3-1990 are not produced before this Tribunal. As earlier stated Ex. W-1 are the four Pass Books of the Petitioner relating to his account No. 4576 maintained in the Respondent Bank i.e. Dena Bank, Hyderabad. The entries in these four pass books relate for the period from 1-12-1982 to 11-8-1990. The wages received by him have been credited to his account in these pass books. A perusal of the entries in these pass books goes to show that he was employed as Casual Labour on daily wage basis. The wages for the days he worked have been credited to his account. The entries in these pass books do not disclose that the Petitioner-workman was a regular employee of the bank whose salary is being paid on monthly basis. On the other hand, they categorically disclose that he was engaged as a casual labour on temporary basis due to exigency of work. It is obvious from this record that he was not recruited on a permanent basis. It is averred in the first para of the claim statement that he was orally asked not to come for duty w.e.f. 12-3-1990. But there are entries in the Pass Books Ex. W-1 that on 14-7-1990 a sum of Rs. 105.00 was credited towards his wages for three days of work i.e. 12th, 13th and 14th July, 1990. There is an entry on 21-7-1990 crediting a sum of Rs. 175.00 for five days' wages i.e. for 16th, 18th, 19th, 20th and 21st July, 1990. Again there is an entry for the date 28-7-1990 crediting a sum of Rs. 210.00 for six days' wages i.e. from 23rd to 28th July, 1990. There is another entry for the date 4-8-1990 crediting a sum of Rs. 175.00 for five days' wages i.e. for 30th and 31st July, 1990 and 1st, 3rd and 4th August, 1990. There is a last entry dated 11-8-1990 crediting a sum of Rs. 175.00 for five days' wages for the period 6th to 10th August, 1990. These entries are proof positive that the services of the petitioner were engaged even during the months of July, 1990 and August, 1990. Further there are no entries relating to prior 1989 in these pass books. The absence of those entries goes without saying that he was not engaged during 1989. Thus the petitioner never worked for more than 240 days continuously in the Respondent-Bank. Obviously he was engaged as a casual labourer to meet the exigency of work on temporary basis. Further it is in the evidence of the petitioner workman as W. W-1 that he attended for the interview twice i.e. on 23-9-1982 and in the month of September, 1983 conducted by the Management of the Respondent Bank for recruiting to the post of Cleaner-cum-Sepoy. He stated in his cross examination that at the time of his interview on 23-9-1982 his name was sponsored by the Employment Exchange for consideration by the Respondent Bank for the post of Cleaner-cum-Sepoy and that his name was not sponsored by the Employment Exchange in the month of September, 1983.

He also admits that the Regional Manager, Dena Bank informed him on 10-9-1986 that his name cannot be considered as it was not sponsored by the Employment Exchange. It is clear from this testimony of W.W-1 that his name was also considered at the time of interview while recruiting for the post of Cleaner-cum-Sepoy by the Respondent Bank and he was not selected. Therefore when he was not selected on merits, it is not open to the petitioner to come and say that he is entitled for reinstatement on the basis that he worked previously. It is true that no oral or documentary evidence have been adduced on behalf of the Management in this case. But the petitioner himself failed to substantiate his case.

9. On a careful consideration of the evidence on record, it is clear that the Petitioner-workman was engaged by the Respondent-Bank temporarily as a casual labour due to exigency of work and he was disengaged when there was no work. Therefore, he was not regularly recruited or employed by the Respondent-Bank, and the disengagement of the Petitioner-workman does not amount to retrenchment. Hence the application of the provisions under Section 25-F of the I. D. Act does not arise in this case.

10. In the light of my above discussion, I hold on Point 1 that there is justification for terminating the services of Shri P. Narsinga Rao. The point is thus decided accordingly in favour of the Respondent-Bank.

11. POINT (2) :—This point relates to the relief to be granted to the Petitioner-workman. In view of my finding on Point (1), the petitioner-workman, is not entitled for any relief in this reference.

12. In the result, Award is passed holding that the Management of Dena Bank, Hyderabad is justified in terminating the services of the workman Shri P. Narsinga Rao, Cleaner-cum-Sepoy and that the petitioner workman is not entitled for any relief. The reference is thus answered. Parties are directed to bear their costs in this reference.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 16th day of March, 1995.

#### A. HANUMANTHU, Industrial Tribunal-I APPENDIX OF EVIDENCE

Witnesses Examined for Petitioner :

W. W-1 P. Narsinga Rao.

Witnesses Examined for Respondent :

NIL.

Documents marked for the Petitioner :

Ex. W-1—Four Pass Books of the Petitioner Shri P. Narsinga Rao.

Ex. W-2—Application by the Petitioner for issue of Service Certificate.

Ex. W-3—Working days of Shri P. Narsinga Rao.

Documents marked for the Respondent

NIL.

नई दिल्ली, 23 मई, 1995

का.या 1682.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबद्ध निरोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-95 को प्राप्त हुआ था।

[संख्या एल-12012/75/90-आई.आर.वी. 2]  
वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 23rd May, 1995

S.O. 1682.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workmen. which was received by the Central Government on 22-5-95.

[No. L-12012/77/81-D.IIA/IR(BU)]  
V. K. SHARMA, Desk Officer.

#### ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL.  
TAMIL NADU  
MADRAS

Tuesday, the 21st day of March, 1995

PRESENT ;

THIRU K. PONNUSAMY. M.A.B.L.,  
Industrial Tribunal

INDUSTRIAL DISPUTE NO. 63/1990

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workman and the Management of Indian Overseas Bank, Madras).

BETWEEN

Shri C. Mani,  
C/o Shri C. S. Mohan,  
90, Lattice Bridge,  
Opp. Satya Nilayam. Thiruvannamiyur,  
Madras-600041.

AND

The General Manager,  
Indian Overseas Bank.  
762 Anna Salai, Madras-600002.

REFERENCE : Order No. L-12012/75/90. IR.B.

II, dated 25-7-90, Ministry of Labour,  
Govt. of India, New Delhi.

This dispute coming on this day for final disposal in the presence of Tvl. N.G.R. Prasad, A. Mani, and S. Vaidyanathan, Advocates appearing for the Management, upon perusing the reference, Claim and Counter statements, and other connected papers on record, and the Workman being absent, this Tribunal passed the following

**AWARD**

This reference has been made for adjudication of the following issue :

"Whether the action of the Management of Indian Overseas Bank, in discharging the services of Shri C. Mani, Shroff| Gowdown Keeper is justified? If not, to what relief is the workman entitled?"

Now the time is 3.40 p.m. No representation for petitioner. Petitioner's Counsel is absent. Petitioner is called. He is absent. This I.D. is posted today for petitioner's arguments as final and last chance. This I.D. is old of the year 1990. Hence this I.D. is dismissed for default. No costs.

Dated, this the 21st day of March, 1995.

THIRU K. PANNUSAMY, Industrial Tribunal

नई दिल्ली, 23 मई, 1995

का.आ 1683.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-95 को प्राप्त हुआ था।

[संख्या एल-12012/77/81-डी II-ए/आई.आर.वी. 2]  
बी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 23rd May, 1995

S.O. 1683.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cen. Bank of India and their workmen, which was received by the Central Government on 22-5-95.

[No. L-12012/77/81-D.II(A)IR(BII-)]  
V. K. SHARMA, Desk Officer

**ANNEXURE**

BEFORE SHRI M. S. SULLAR, PRESIDING  
OFFICER, CENTRAL GOVT. INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT,  
CHANDIGARH

Case No. 1. D. 33/83

Krishan Gopal Gandhi Vs. Central Bank of India  
PRESENT :

For the workman : Shri Mangat Sharma

For the management : Shri Yogesh Jain

**AWARD**

Dated : 2-3-95

The matrix of the facts culminating in the commencement of the present reference petition are that the petitioner K. G. Gandhi (since deceased) joined the services of the respondent bank, as an assistant cashier, in clearical cadre on 13-10-1960. While working at Ambala Cantt. Branch of the respondent bank on 7-2-79, as assistant cashier, he was suspended, charge-sheeted, and a domestic enquiry was conducted. After the enquiry he was discharged from the service w.e.f. 12-5-75. He had challenged his dismissal order by way of the present reference.

2. In the wake of industrial dispute raised by him U/S 10(1)(d) of the Industrial Disputes Act, 1947, (hereinafter to be referred as the Act). The Central Govt. vide letter No. L-12012/77/81-D.II(A) dated 30th April, 1982, has referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of Central Bank of India, in relation to their Ambala Cantt. Branch in discharging Shri Krishan Gopal Gandhi, Assistant Cashier from service w.e.f. 12-5-75 is justified? If not, to what relief is the workman concerned entitled?"

3. The case set up by the petitioner, in brief, in so far as relevant is that, he was wrongly charge-sheeted, ordering departmental enquiry other 5/6 employees; who were actually involved in the case were left out by the respondent bank. It is alleged that enquiry was resumed after a long time by Shri V. H. Pange, enquiry officer who was deputed for urgent business of the bank at Patna. On 3-8-1971, the enquiry officer sent to letter informing the defence representative that the enquiry was entrusted to one Shri S. K. Gauba, Shri S. K. Gauba did not resume the enquiry nor fixed any date. The petitioner approached the Assistant Labour Commissioner, for delay and it was only thereafter, the departmental enquiry, which was lastly held on 14-5-71, was resumed after 14 months not by Shri S.K. Gauba but by the previous enquiry officer Shri V. H. Pange. The petitioner has mainly challenged the enquiry proceedings on the ground that enquiry officer abruptly close and concluded the enquiry without affording reasonable opportunity to the petitioner and to put forth his defence. The enquiry officer delivered his finding; holding the petitioner guilty of the charges in proposed his immediate dismissal from the bank's service and asking



the petition to show cause against the said proposed punishment to the enquiry officer himself; though he was not competent to do so. The petitioner raised the grievance and pleaded for re-opening the enquiry to enable him to put forth his defence. The enquiry officer conceded to his request in conditional form and informed him that the supplementary enquiry was to be held on 23-2-1973. The supplementary enquiry resumed on 23-2-1973, and concluded on the same day and the enquiry officer communicated his supplementary findings reiterating that the charges against the workman had been proved and the enquiry officer proposed the revised punishment of immediate discharge of the workman from the bank's service. It is alleged that the enquiry officer directed the petitioner to file the appeal. The punishing authority did not pass any order in the gazette of the application dated 11-10-1973 filed before the Central Govt. Industrial Tribunal-cum-Labour Court, Delhi for seeking permission to take action against the petitioner. It was next stated that the appeal filed by the petitioner was referred to Shri A. B. Wadia, Zonal Manager, New Delhi for disposal but again, it was informed that appeal was referred to C.C. Patel, Zonal Manager, Ahmedabad. The appeal of the petitioner was not disposed of. Narrating the sequences of events, the petitioner has further assailed the enquiry on the ground that the findings of the enquiry officer were completely perverse and the workman was given discriminatory treatment and order of discharge was invalid as it was in contravention of clause 19.4 of the Bipartite Settlement dated 19-10-1966. On the footing of aforesaid pleadings the petitioner prayed that the impugned punishment of discharge be set aside and he also claimed reinstatement with retrospective effect with full back wages and all other service benefits.

4. The management has contested the claim of the petitioner and filed the written statement inter-alia pleading certain preliminary objection of maintainability of the reference petition, on the ground of delay, in raising the industrial dispute and on account of the death of the petitioner on 16-1-1988. The pleaded case of the management is that, the petitioner was placed under suspension on 7-2-1970, as he has mis-appropriated an amount of Rs. 20021-. He was served a regular charge sheet and it is alleged that a legal and regular domestic enquiry was conducted against the petitioner. As regard the change of enquiry officer is concerned, it has been averred by the management, that Shri V. H. Pange was appointed as enquiry officer and later on the enquiry was entrusted to Shri S. K. Gauba. According to the management, the enquiry officer submitted his findings and thereafter he reopened the enquiry at the request of the petitioner and since Shri V.H. Pange was transferred to Patna, and Mr. Gauba was not available, so Mr. Pange was again appointed to conduct the enquiry, which caused the dismissal of the petitioner. It will not be out of place to mention here that the management has stoutly denied the other allegations of the petitioner in the written statement and in all it has been alleged that the enquiry was fair and in accordance with rules, the petitioner was afforded full opportunity and according to the management no interference in the dismissal order is

called for. That being so, the management prayed for the dismissal of the reference petition.

5. Controverting the allegations of the management contained in the written statement and reiterating the stand taken in the statement of claim, the petitioner filed the application.

6. The petitioner, in order to substantiate his claim, appeared as his own witness as WW1, who has tendered into evidence his affidavit Ex. W1 and copies of the letters Ex. W1 and W2, Ex. W3 is the copy of charge sheet, and copies of letter and enquiry proceedings Ex. W4 to W27. The management got proved the Enquiry file Ex. R1.

7. The management in order to rebutt the evidence brought on record by the petitioner, examined Shri R. P. Bhutani as MW1, who has tendered into evidence his affidavit Ex. M1.

8. It will not be out of place to mention here that Krishan Gopal Gandhi, the original petitioner had expired on 16-1-1988 and his LR's were held entitled to prosecute and continuing the reference by Shri M. K. Bansal, the then, learned Presiding Officer vide his order dated 12-5-1988.

9. At the outset, to my mind, it would be expedient in the interest of justice to decide the preliminary objection, regarding the maintainability of the reference petition, owing to the death of the original petitioner, raised on behalf of the management. In this regard the rep. of the management, attracting the attention of the Court towards the preliminary objection, in the amended written statement, urged that the original petitioner K. G. Gandhi had died on 16-1-1988 and the reference petition become infructuous, so the representative of the management argued that the reference petition be declined on this score alone. I have considered the argument of the representative of the management, which in my considered opinion, is not only devoid of merit but misplaced as well. For the following reasons. Firstly as mentioned above, Shri M.K. Bansal, the then learned presiding officer vide his order dated 12-5-1988 held that LR's of the deceased petitioner have the right to sue the present reference petition. The management did not challenge this order and admittedly the said order had attained the finality, so in this view of the matter, the management is estopped from raising the preliminary objection at this stage, which had already been negatived. Secondly Sub-section 8 of Section 10 of the Act postulates that no proceedings pending before the Labour Court, Tribunal or National Tribunal in relation to an industrial dispute shall lapse merely by reason of the death of any of the party to the dispute, and such Labour Court, Tribunal, or national Tribunal shall complete such proceedings and submit its award to the appropriate Govt. According to this section, reference petition would not become infructuous owing to the death of the original petitioner so the argument has no force, strictu sent deserved to be ignored for the aforesaid reasons.

10. It may be mentioned here that it is settled principle of law that the enquiry can not be said to have been properly held unless employee proceeded against has been informed clearly of the charges



level against him (ii) the witnesses are examined in the presence of the employees in respect of the charges (iii) employees is given fair opportunity to cross-examine the witnesses, (iv) he is also given fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter and (v) enquiry officer records his findings based on reasons in his report.

11. Now the short and significant question, those important arises for determination in this case is, whether the domestic enquiry is held in accordance with law and is valid. The rep. of the petitioner has contended with some amount of vehemence that the alleged domestic enquiry conducted against the petitioner is vitiated as according to him, the enquiry officer Shri V.H. Pange has got no jurisdiction to continue with the enquiry proceedings, when the enquiry was entrusted to Shri Gauba, the other enquiry officer. Faced with the situation, the rep. of the management has fairly admitted that no doubt the enquiry was transferred from V.H. Pange to Shri S. K. Gauba, but he argued that the subsequent completion of the enquiry proceeding by Shri V.H. Pange is legal.

12. Having heard the representatives of the parties at quite some length, having gone through the evidence on record and after bestowal of thoughts on the entire matter, I can not help observing that the enquiry is vitiated.

13. According to para 19:14 of the Bipartite Settlement, the Chief Executive Officer or the principle officer of a Bank or an alternative officer at the Head Officer or principle officer appointed by him for the purpose shall decide, which officer shall be empowered to hold enquiry and take departmental action. Admittedly, exercising this power, Shri V. H. Pange, was appointed the enquiry officer, to go into the charges of misappropriation against the petitioner, contained in Charge-sheet Ex. W3. He started the domestic enquiry, but Shri V.H. Pange, enquiry officer wrote a letter dated 18-6-1971 to the workman's representative and Chief Agent Ambala Cantt. Regional Manager Section 17-B and Personal Deptt. H.O. Bombay copy of which Ex. W6, informing the postponement of the enquiry proceedings till such time as the new enquiry officer is appointed. Ex. W is the copy of another letter dated 3-8-1971 of Shri V. Pange, informing the representative of the petitioner, that enquiry in question has now been entrusted to Shri S. K. Gauba, Asstt. Chief Agent New Delhi. Ex. W8 is another letter dated 27-8-1971 of Mr. P. K. Patel from Divisional Office, inter-alia mentioning that the management had deputed Mr. S. K. Gauba Asstt. Chief Agent Delhi as enquiry officer to conduct the domestic enquiry against Shri K.G. Gandhi as Mr. V.H. Pange has been entrusted with some urgent work and further he will be attending the Chief Agent's conference to be held shortly at Bombay. The copies of these letters are available at page 269 and 270 of the enquiry file Ex. R-1. Thus it would be seen that the bare perusal of letter Ex. W6 and Ex. W7 and Ex. W8 would go to show that the original enquiry in question was transferred from Shri V. H. Pange the original enquiry officer and was entrusted to Shri S.K. Gauba Asstt. Chief Agent, New Delhi. If that is so, then to my mind, Shri V.H.

Pange, become functus-officio and I failed to understand how and in what manner and without any order he assumed the jurisdiction to conduct the enquiry against the petitioner, particularly when the management have neither proved nor brought on record any order re-appointing Shri V.H. Pange as the enquiry officer, by any competent authority. Even the management has not examined Shri V. H. Pange as a witness in this Court to enable the petitioner to cross-examine him how, when and in what manner he himself assumed the jurisdiction to hold enquiry. So the management has withheld the best possible evidence for the reasons best known to it and adverse inference against the management, in this regard, is inevitable. So much so, Shri R.P. Bhutani, Regional Manager while appearing as MW1 has categorically admitted that the original enquiry officer was changed. So the entire enquiry proceedings conducted by Shri V.H. Pange after the appointment of Shri S. K. Gauba new enquiry officer, in the present case, is without jurisdiction. No cogent explanation on behalf of the management is forthcoming, as to why Mr. S.K. Gauba has not conducted the enquiry entrusted to him by the competent authority. In this view of the matter, it is held that the subsequent enquiry proceedings and findings of Mr. V.H. Pange, holding the petitioner guilty of the charges are illegal and without jurisdiction and vitiated and dismissal order in the wake of unlawful enquiry is bad in law and can not possibly be sustained.

14. The contention of the representative of the petitioner, that the petitioner was wrongly suspended without any material vide letter dated 7-2-1970 Ex. W1, so the enquiry is bad, is devoid of merit. No doubt, it is clear from the letter Ex. W1 that petitioner was suspended in the wake of police having registered a case for the offence of embezzlement and he was suspended on that count. The management was well within the jurisdiction to suspend the petitioner, against whom disciplinary action was proposed under sub para 52 of Sastry Award. Even otherwise, assumingly, (not admittedly) the wrong suspension at the initial stage has got no direct bearing on the already concluded domestic enquiry and this point can not possibly be agitated at this stage.

15. Further more Sub para 10(4) of para 521 postulates that an employee against whom disciplinary action is proposed or likely to be taken shall be given a charge sheet and date shall be fixed for enquiry, sufficient time being given to him to enable him to give and prefer his explanation as also to produce any evidence, what he may wish to tender in his defence. On other words, it was the mandatory and statutory duty of the management and requirement of the natural justice, to provide full opportunity to lead his defence evidence to the petitioner, in a domestic enquiry, before any action is taken. But the bare perusal of the enquiry proceedings dated 11-7-72 at page 257 of enquiry file Ex. R1, would go to show that the management has closed its evidence and Mr. Chopra the representative of the workman concluded his cross-examination. It was the statutory duty of the enquiry officer to provide full opportunity to the delinquent employee to produce his defence evidence. But instead of adjourning the enquiry proceedings for the defence evidence and

continuing the enquiry proceedings, the enquiry officer directed both the parties to submit their arguments in writing. The enquiry officer gave the finding dated 30-9-1972, copy of which is Ex. W10. When petitioner received the copy of findings, the delinquent employee had filed objections dated 13-10-1972 to the enquiry officer, copy of which is Ex. W11, inter-alia mentioning that no opportunity of producing defence evidence was given to him and sought an opportunity to produce defence evidence. Enquiry officer vide letter dated 2-12-1972, copy of which is Ex. W12, accepted the request of the petitioner and agreed to give more chance to the petitioner to produce his witnesses and document but Ex. W12 would demonstrate that the enquiry officer has confined the hearing for only one day and that too with the restriction that no question pertaining to the veracity of evidence will be permitted during the hearing. The petitioner was not allowed to produce any witness already been examined. Now the question arises, whether full opportunity to produce the defence evidence had been provided to the petitioner during the domestic enquiry as contemplated under para 521 of Sastry Award and Bipartite Settlement and principle of natural justice. The argument of the representative of the management, that the enquiry was reopened for one day at the request of the petitioner, so it should be presumed that full opportunity was granted to the petitioner, is again not tenable, because it is now well settled that reasonable opportunity of presenting his case should be granted to the delinquent employee and the authority should act fairly, justly and reasonably. As mentioned above, and taking the risk of repetition, the re-opening the enquiry for one date after first finding of the enquiry officer giving the opportunity to the petitioner with the conditions contained in letter Ex. W12, to my mind, will not meet the requirement of natural justice and statutory provisions of law, providing opportunity to the petitioner. The enquiry officer has put the condition that petitioner will not ask any question pertaining to the veracity of the witnesses who has already been produced on record and petitioner would be permitted to adduce evidence and finally the enquiry will last only for a day. The conditions contained in Ex. W12 in my considered opinion, are not fair and the enquiry officer has granted the alleged opportunity of one day to the petitioner to produce his defence, is an eye wash and against the principle of natural justice and fair play. The enquiry officer, to my mind had no jurisdiction to curtail the defence of the petitioner by giving him opportunity for one day. Such restrictions are illegal. It was the duty of the enquiry officer to provide full opportunity to the petitioner to lead full evidence. Hon'ble Supreme Court of India in a recent judgement in Case D.K. Yadav Vs. M/s. J.M.A. Industry Ltd. reported in 1993 (3) R.S.J. page 696 has categorically observed that the aim of rule of natural justice is to secure justice and to put it negatively to prevent mis-carriage of justice. The cardinal point that has to be borne in mind in every case is whether the person concerned should have a reasonable opportunity of presenting case and the authority should act, fairly, justly, reasonably and impartially and the procedure followed must be just, fair and reasonable. It was also observed that it is a fundamental of law that no decision must be taken which will effect the right of any person without giving him an opportunity

of being heard. It was held in para 11 of the judgement as under :

"The law must therefore be now taken to be well-settled that procedure prescribed for depriving a person of livelihood must meet the challenge of Art. 14, and such law would be liable to be tested on the anvil of Art. 14 and the procedure prescribed by a statute or statutory rule or rules or orders effecting the civil rights or result in civil consequences would have to answer the requirement of Art. 14. So it must be right, just and fair and not arbitrary fanciful or oppressive. There can be no distinction between a quasi-judicial function and an administrative function for the purpose of principles of natural justice. The aim of both administrative enquiry is to arrive at a just decision and if a rule of natural justice is calculated to secure justice or to put it negatively, to prevent mis-carriage of justice, it is difficult to see why it should be applicable only to quasi-judicial enquiry and not to administrative enquiry. It must logically apply to both."

16. Reliance in this regard can also be placed to a judgement of Hon'ble High Court of Punjab & Haryana in case Joginder Chand Vs. Punjab State Electricity Board 1994(1) R.S.J. Page 186.

17. If the procedure adopted by the enquiry officer in the case in hand is analysed in relation to the law laid down in the aforesaid judgements, then, I can not help observing that the time limit of one day and other restrictions put forth by the enquiry officer, in the defence, is nothing but a clear denial of reasonable opportunity to the petitioner. In the absence of reasonable opportunity to lead the defence, the enquiry, in my considered opinion, is illegal and against the Sastry Award and principle of natural justice. The aforesaid judgements are the complete answer to the problem in hand.

18. There is another aspect of the matter, which can be viewed from another angle. It is now well recognised that the enquiry officer should apply his mind, to properly scrutinize the evidence and other material on record before arriving at any conclusion. As mentioned above, the enquiry officer had given his first finding without affording any opportunity to the petitioner to produce his defence on 30-9-1972. He has allowed the petitioner to produce his evidence for one day vide letter dated 2-12-1972 Ex. W12. Again he submitted his supplementary findings on 30-6-1973. The bare perusal of the supplementary findings would go to show that the enquiry officer has based his decision mainly on the basis of his first finding. He has not cogently discussed in detail the entire material and has not met the arguments on behalf of the workman and mentioned in the supplementary report that the workman's representative has practically raised the same arguments which were advanced the previous hearing. The supplementary enquiry findings were sent to the petitioner vide letter dated 2-7-1973, copy of which is Ex. W18, vide which the petitioner was proposed to be discharged from the service of the bank. Further the enquiry officer has directed the petitioner vide letter Ex.

W18 that if he had anything to submit against the proposed punishment, he was advised to submit his representation for the same to the enquiry officer within 15 days from the receipt of the letter failing which it would be concluded that he has nothing to submit against the proposed punishment and the same will be confirmed. Admittedly Shri V.H. Pange, enquiry officer was not a appointing authority/disciplinary authority so he can neither pass any order of punishment nor can ask the petitioner to file his objections in this direction. Further more, Ex. W20 is the copy of letter dated 24-9-1973 written by Shri V. H. Pange enquiry officer to the petitioner informing him to file an appeal against the punishment passed and confirmed by the enquiry officer, to the appellate authority within 45 days. Thus the enquiry officer was neither competent, to pass the punishment order nor he can ask the petitioner to file his objections in this direction nor he was competent to direct the petitioner to file the appeal, in the absence of any order of punishment by the competent authority. Thus the procedure adopted by the enquiry officer was not in conformity with the law and rules of natural justice.

19. If the enquiry proceedings held by Shri V. H. Pange, after the enquiry was entrusted to Shri S.K. Gauba, his findings, violation of the statutory rules, principles of natural justice and denial of reasonable opportunity to the petitioner to produce his defence and other facts and circumstances mentioned above are put together, then to my mind, the conclusion is unescapable that the alleged domestic enquiry held against the petitioner was illegal and is vitiated. Any order of discharge passed on such illegal enquiry can not possibly be sustained. So the discharge order, in the wake of alleged enquiry, is bad in law and is hereby set aside.

20. As mentioned above, the petitioner died on 16-1-1988 during the pendency of the reference proceedings, so natural consequences would be that he would be deemed to be in service till his death.

21. Now adverting to the awarding of back wages, to my mind, it would be expedient in the interest of justice and ends of justice would squarely be met if the widow or the nominee of the deceased, petitioner are granted 50 per cent of the back wages till his death, because, he himself invited the enquiry proceedings by mis-appropriating the alleged amount and he did not (actually) work during the relevant period. The management is directed to pay 50 per cent of the back wages to the widow or the nominee of the deceased petitioner, and all other consequential service benefits till the date of death of the petitioner. Consequently, reference petitioner is accepted with cost of Rs. 500/- Appropriate Govt, be informed.  
Chandigarh

2-3-1995

M. S. SULLAR, Presiding Officer

नई दिल्ली, 23 मई, 1995

का. आ. 1684.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों

और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार का 22-5-95 को प्राप्त हुआ था।

[गम्या एल-12011/38/91-आई.आर. (बी. 2)]

वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 23rd May, 1995

S.O. 1684.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 22-5-95.

[No. L-12011/38/91 IR (B.II)]  
V. K. SHARMA, Desk Officer

#### ANNEXURE

BEFORE SHRI M. S. SULLAR, PRESIDING  
OFFICER, CENTRAL GOVT. INDUSTRIAL TRI-  
BUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. I.D. 181/91

Workman Vs. Punjab National Bank.

For the workman: Shri F. C. Mittal.

For the management: Shri Rajesh Gupta.

#### AWARD

Dated, the 10th April, 1995

Paragraph 557 of the popularly known as Sastri Award postulates the entitlement of pay and other allowances to an employee under suspension. The management of Punjab National Bank has issued a circular No 1241 dated 7-9-1990 inter-alia mentioning that an employee under suspension will not be entitled for annual graded increment falling due during his suspension period. This circular of the bank offended the employee's Union, which necessitated the raising of the present industrial dispute by the Union.

In the wake of industrial dispute raised by the Union U/S 10 of the Industrial Disputes Act, (hereinafter to be referred as the Act), the Central Govt. vide letter No. L-12011/38/91-IR-B-II dated 22nd October 1991, has referred the following dispute to this Tribunal for adjudication.

"Whether the action of the management in issuing the circular No. 1241 dated 7-9-90 through its Zonal Manager, Northern Zone thereby denying the right to annual graded increment during the suspension period to its award staff is legally just and valid? If not, then to what relief the award staff of the bank is entitled to in the present case?

The case set up by the petitioner's Union, in brief in so far as relevant is that the service conditions of Bank's employees are governed by Sastri Award, Bipartite Settlement and other labour laws, but

the management of Punjab National Bank issued a circular No. 1241 dated 7-9-90, stopping the graded increment of the employees during the period of suspension. It is alleged that graded increment had been granted to every employee under suspension before the impugned circular but the management had issued the circular contrary and absolutely in contravention of para 557 of Sastri Award. According to the Union, an employee under suspension is entitled for all the benefit granted by the Sastri Award but the impugned circular of the management has illegally encroached upon the area of Sastri Award and is arbitrary and void-abinitio and amounts to breach of settlement and attracts the provisions of Section 25-U and Section 29 of the Act. On the footing of aforesaid pleadings, the petitioner Union prayed that the management be directed to withdraw the impugned circular and issues fresh clarification allowing the benefit of annual graded increment to an employee during the suspension period.

The management has contested the case of the Union and filed the written statement, inter-alia pleading that the bank had issued some clarification regarding the annual graded increment during the period of suspension vide circular dated 7-9-90. It is alleged that the said circular is neither in violation of para 557 of Sastri Award or any of the Bipartite Settlement. The bank has not changed any provision of any law with regard to the payment of subsistence allowance during the period of suspension. However it is admitted that the increments during the period of suspension were being released to the workman staff before the issuance of the impugned circular. In all it has been alleged that the management of respondent bank is competent to issue any clarification which is not in violation of any provisions of the Act, Award or Bipartite Settlement. It will not be out of place to mention here that the management has stoutly denied the other allegations of the union in its written statement. That being so, the management has prayed for the dismissal of the reference petition.

Controverting the allegations contained in the written statement and reiterating its stand taken in the statement of claim, the Union filed the replication.

The Union, in order to substantiate its claim examined F.C. Mittal, Organising Secretary of the Union as WW1, who has tendered into evidence his affidavit Ex. W1. The management got proved the letter dated 7-9-90 as Ex. M1.

The management in order to rebutt the evidence brought on record by the Union, examined O.P. Khorana as MW1, who has tendered into evidence his affidavit Ex. M2 and copy of letter dated 8-9-1983, Ex. M3.

Having heard the representatives of the parties, having gone through the evidence on record and after bestowal of thoughts on the entire matter, to my mind, the reference petition deserves acceptance.

As indicated earlier, according to the petitioner Union, the impugned circular dated 7-9-90 Ex. M1 is in contravention of the provisions of para 557 of the Sastri Award. The union has so stated in the affidavit of Ex. W1 of WW1. On the other hand, according to the management, the impugned circular Ex. M1 did not violate any provisions of Sastri Award or bipartite settlement. Thus it would be seen that the facts of the case are neither intricate nor in dispute.

Now the short and significant question, though important, arises for determination in this case is, whether the management can stop, annual graded increment falling due during the period of suspension of an employee, in pursuance of impugned letter, Ex. M1 Chapter 30 of Sastri Award, deals with the subsistence allowance during the period of suspension of an employee. Its para 557 is in the following terms:

"Having considered the matter in all its aspects, we think that suspension allowance should be granted on the following scale:—

- (1) For the first three months one-third of the pay and allowances which the workman would have got. But for the suspension;
- (2) thereafter, where the enquiry is departmental by the bank, one-half of the pay as allowances for the succeeding months. Where the enquiry is by an outside agency, one-third of the pay and allowances for the next three months and thereafter one-half for the succeeding months until the enquiry is over."

Para 85 of Chapter 5 of Sastri Award postulates that a workman normally have the benefit of the annual increments as a matter of course and it was directed that the increments should normally be given to an employee and stoppage of increments by the management should be only by way of punishment for proved misconduct or gross inefficiency. The combined reading of chapter 5 and 30 of the Sastri Award would reveal that the suspended employee is entitled to pay and allowances which he would have got if he was not under suspension. In other words, a suspended employee is entitled for increments and quarterly allowance payable to him. What the employee would have got if the employee had not put under suspension. To my mind the management can not by pass the provisions of Sastri Award, curtailing the graded increment of an employee by issuing the impugned circular, Ex. M1. The management had got no jurisdiction to stop the annual graded increment and other allowance of an employee in the garb of letter No. 1241 dated 7-9-90 Ex. M1, over and above the provisions of Sastri Award. Para 557 of Sastri Award is equally binding on the management and the management is estopped from by passing the provisions of Sastri Award unless it is repealed. Further more, the management in para 3 & 4 of the written statement has categorically admitted that the increment during the period of suspension were being released to the workman staff before the issuance of circular Ex. M1. If that is so, then, no cogent explanation on behalf of the management is

forthcoming as what necessitated the management to issue the impugned circular Ex. M1 which is totally contrary to the Sastry Award.

The sole contention of the rep. of the management, that the impugned circular Ex. M1 is nothing but a clarification, is not only devoid of merit, but misplaced as well, because the bare perusal of the impugned circular Ex. M1 would reveal that the management has directed that an employee under suspension will not be entitled for annual graded increment falling due during his suspension period and in my considered opinion, it can not possibly be termed as clarification but a hurdle on the rights of a suspended employee. A similar question arose in the case of Madhav Anant Rao Gore Vs. State Bank of India Bhopal reported in 1986-II I.L.J. 394. After considering the matter deeply, it has been specifically held in the aforementioned judgement that suspended employee is entitled to pay and allowance increments and quarterly allowance, which he could have got if he was not under suspension. This judgement is the complete answer to the problem in hand.

In the light of aforesaid reasons, it is held that every employee is entitled to subsistence allowance as postulated in Sastry Award and action of the management in stopping the annual graded increment to such employee in the garb of circular Ex. M1 is illegal, arbitrary and in-operative. Consequently, the reference is accepted in the obtaining circumstances of the case. Keeping in view the peculiar facts and circumstances of the case, the parties are left to bear their own cost. Appropriate Govt. be informed. Chandigarh. 10-4-1995.

M. S. SULLAR, Presiding Officer

नई दिल्ली, 24 मई, 1995

का.आ. 1685.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार बोकारो स्टील प्लांट के प्रबन्धन के संकट नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम. पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24 मई, 1995 को प्राप्त हुआ था।

[संख्या एल-26011/3/90-आईआर (विवाद)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1685.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bokaro Steel Plant and their work-

men, which was received by the Central Government on 24-5-95.

[No. L-26011/3/90-IR(MISC.)]

B. M. DAVID, Desk Officer

ANNEXURE  
IN THE CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR (MP)

CASE REF. NO CGIT/LC(R)(33)/1992

BETWEEN

The President Bokaro Steel Mazdoor Sabha,  
Bhawanthpur Township, District Palamau  
(Bihar).

AND

The Chairman-cum-Managing Director, Bokaro  
Steel Plant, P.O. : B. S. City, District  
Dhanbad (Bihar) :

AND

Presided in : By Shri Arvind Kumar Awasthy.

PEARANCES :

For Workman : None

For Management : Shri R. C. Srivastava, Advocate.

INDUSTRY : Steel Plant Distt. Dhanbad (Bihar)

AWARD

Dated, the 12th May, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-26011/3/30-IR(Misc.) dated 18-2-1992, for adjudication of the following industrial dispute :

SCHEDULE

"Whether the action of the management of Bokaro Steel Ltd. denying departmentalisation and payment of allowances and benefits of Steel Wages as applicable in other Mines of Bokaro Steel Ltd. to contract labourers working under 4 contractors as per Annexure D.E.F. and G is justified? If not, to what relief these workmen are entitled to?"

2. Reference was received on 2-3-1992 and in spite of repeated notices sent to the workman, the workman has not filed the statement of claim. Counsel for the management appeared on all the hearings since 15-5-1992 and he prayed to close the case and pass a no dispute award. The workmen are not interested in pursuing the case and as such no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 24 मई, 1995

का.आ. 1686.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में केन्द्रीय सरकार मालनखण्ड कॉपर प्रोजेक्ट के प्रबन्धन के संकट नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

जबलपुर (एम०पी०) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-95 को प्राप्त हुआ था।

[संख्या एल-43011/4/87-डी III-बी 3]

बी०एम० डेविड, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1686.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Malanjkhanda Copper Project and their workmen, which was received by the Central Government on 24-5-1995.

[No. L-43011/4/97-D.III-B.3]

B. M. DAVID, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,

JABALPUR (M.P.).

CASE REF. NO. CGIT/LC(R)(2)/1988

BETWEEN

The General Secretary, Bhartiya Khanij Mazdoor Sangh (BMS), P.O. Malanjkhanda, District Balaghat (M.P.).

AND

The Executive Director, Malanjkhanda Copper Project, H. C. Ltd., P.O. Malanjkhanda, District (M.P.)

Presided in : By Shri Arvind Kumar Awasthy

#### APPEARANCES :

For Workman : Shri S. S. Shakarwar, Advocate

For Management : Shri R. K. Gupta, Advocate

INDUSTRY : Copper Mine

DISTRICT :

Balaghat (M.P.)

#### AWARD

Dated, 10th May, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-43011/4/87-D.III(B) dated 3/28-12-1987, for adjudication of the following industrial dispute :

#### SCHEDULE

"Whether the action of the management of Malanjkhanda Copper Project, Malanjkhanda in asking the electricians working in shifts to do the job of maintenance of all electrical equipment in the mine is justified? If not, what relief the workmen concerned are entitled to?"

2. Facts of the case are that the management has arrived at the settlement during the course of concilia-

tion with the union, Bhartiya Khanij Mazdoor Sangh (BMS) on 9-8-1984 and 10-8-1984 through which various trade category of workmen working in various departments were prescribed. It is also not in dispute that the electricians as per their work were divided in three wings (1) maintenance wing (2) power supply equipments and cable shifting wing & (3) running maintenance wing etc. It is also not in dispute that as per job evaluation Settlement these 3 groups of electricians were engaged in the jobs mentioned in job codes described in the J.E. Settlement.

3. The case of the workman is that the management has issued illegal instructions to the electricians working in mines. In shift duties of job code nos. 3105 and 3106 as a running maintenance group the electricians were asked to do job no. 3102 and 3103 which is actually the work of maintenance group and power supply equipment and cable shifting groups, that the management desired to do in the alleged job code. Union has prayed that the workers of running maintenance group, whose job are described in Job Code Nos. 3105 and 3106 should not be compelled to do the work of other job codes.

4. Management has denied that the workers of running maintenance group were compelled to do the job of other Codes of 3102 and 3103. Management has alleged that the electricians are required to attend to maintenance of all electrical equipments in order to avoid the loss of production and achievements that there is no prohibition in the conciliation settlement that the electricians of a particular group cannot be asked to do the job of other codes. The management has further alleged that according to the conciliation settlement the dispute regarding the job description was to be settled by the General Manager and as such reference against the terms of the conciliation settlement is not tenable.

5. Terms of reference were made the issue in the case.

6. From the perusal of the Tripartite Settlement, it is clear that there is no prohibition therein that the electricians working in shift duty had a right to work only in particular maintenance group or wing and the management was not debar from asking the electricians of that group to work in the other group of a particular job code. From the perusal of job codes, it is clear that the job of electricians of maintenance group and job of other two groups is similar in nature and there is superficial difference in the nature of job. Consequently, looking to the basic rule that the paramount duty should be the interest of the industry, the act of the management to direct the electricians of a particular group to work on other job group was proper. However, looking to the job evaluation settlement, such disputes are to be resolved by the General Manager. This contention that the dispute should be resolved by the General Manager is just because the General Manager is a proper person conversant with the ground realities in the requirement of the industry and the job of the workman.

7. Thus, the act of the management in asking the electricians working in particular shift to do the job of maintenance of all electrical equipment in the mine

is justified. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 24 मई, 1995

का०आ० 1687.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्टर्न मैनेजमेंट एंड मिनेरल्स लिमिटेड के प्रबंध-तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं० 2, धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-95 को प्राप्त हुआ था।

[संख्या एल-27012/43/85-डी III(बी)]

बी०एम० डेविड, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1687.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Eastern Management & Minerals Ltd. and their workmen, which was received by the Central Government on 24-5-95.

[No. L-27012/43/85-D.III(B)]

B. M. DAVID, Desk Officer.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD PRESENT :

Shri D. K. Nayak, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 16 OF 1987

#### PARTIES :

Employers in relation to the management of Eastern Manganese & Minerals Ltd., P.O. Kodarama, District Hazaribagh and their workman.

#### APPEARANCES :

On behalf of the workmen.—None.

On behalf of the employers.—Shri D. K. Verma, Advocate.

STATE : Bihar.

INDUSTRY : Mica.

Dated, Dhanbad, the 16th May, 1995

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their

Order No. L-27012/43/85-D.III(B), dated, the 3rd December, 1986.

#### SCHEDULE

"Whether the action of the management of Pestra Abrakh Khan of M/s. Eastern Manganese & Minerals Ltd., P.O. Kodarama, District Hazaribagh in dismissing Shri Sona Yadav on flimsy ground is legal and justified. If not, to what relief is the concerned workman entitled?"

2. This reference is pending since 1987. It reveals from the records of this case that registered notices were duly served upon the workman for their appearance and necessary steps but the workmen neither turned up nor took any steps. On the other hand the learned Advocate for the management all along made his appearance. Therefore, it leads to draw an inference that there is no dispute existing between the workmen and the management presently. In the circumstances, I have no other alternative than to pass a 'No dispute' Award in this reference.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 24 मई, 1995

का०आ० 1688.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै० सेन्ट्रल कोलफील्ड्स लि० की बोकारो कोलियरी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं० 1), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-95 को प्राप्त हुआ था।

[संख्या एल-20012/18/89-आई आर (कोल-I)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1688.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 1), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bokaro Colliery of M/s. CCL and their workmen, which was received by the Central Government on 22-5-95.

[No. L-20012/18/89-IR(Coal-I)]

BRAJ MOHAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) (2-A) of the Industrial Disputes Act, 1947.

Reference No. 122 of 1989



**PARTIES :**

Employers in relation to the management of  
Bokaro Colliery of M/s. Central Coalfields  
Ltd.

AND  
Their Workmen

**PRESENT :**

Shri P. K. Sinha, Presiding Officer

**APPEARANCES :**

For the Employers : Shri R. S. Murthy, Advocate

For the Workmen : Shri J. P. Singha, Advocate

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 12th May, 1995

**AWARD**

By Order No. L-20012/18/89-I.R.(Coal-I) dated 5-10-1989 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Bokaro Colliery of M/s. Central Coalfields Ltd. P. O. Sunday Bazar, Bermo, Distt. Giridih in retiring Sh. Nurul Haque w.e.f. 19-9-85 is justified ? If not, to what relief the concerned workman is entitled to ?”

2. The case of the parties as would appear from man claims, he was simply asked to affix is thumb ed workman, Sh. Nurl Haque has claimed that he was arbitrarily made to superannuate on 19-9-1995 though the certificate of the school where he had studied had shown his date of birth to be 1-1-1936, thereby making his retirement date to be 1-1-1996, on his reaching the age of 60 years. The workman has claimed that he had not declared his age while he joined the service on 26-10-60 or when he was made permanent with effect from 1-4-1961 as the practice at that time was that the clerk maintaining Form ‘B’ Register himself used to estimate the age of a new entrant and enter that into Form ‘B’ Register.

3. Admittedly, the workman was asked by the management to appear before the Age Committee on 19-9-79 which the workman complied but, the workman claims, he was simply asked to affix is thumb impression on a paper.

4. Admittedly also that the workman received a notice dated 30-11-84 that he would be superannuated on 19-9-85. It was after that that the workman made enquiries from the school and learnt that the date of birth was noted therein as 1-1-1936. Thus the concerned workman filed his representation before the management for correcting his date of birth. The management demanded authentication (of the school certificate) from the Inspector of schools as well from local BDO. However, the management rejected the prayer of the workman and the workman was superannuated with effect from 19-9-85.

5. The workman filed writ application before Hon-ble High Court, Patna at Ranchi Bench which was rejected with observation that the workman should seek relief under Industrial Disputes Act 1947. Thereafter the workman raised an industrial dispute before the Asstt. Labour Commissioner (C), Hazaribagh.

6. The workman has prayed for his re nstatement and to allow him to work till he reaches the age of retirement on 1-1-1996.

7. It obvious from the written statement of the workman as well from the record that for the first time the workman represented against his age after he was served retirement notice by the letter of the management dated 30-11-84. From the written statement of the workman in paras 6 and 7 it would appear that the certificate of the school was presented before the management who directed him to obtain authentication from the Inspector of Schools at which he obtained the same not only from the inspector of schools but also by the local B.D.O. Even then his representation was rejected. The management, in the rejoinder portion of its written statement has claimed, relating to the averments of the workman in para 6 and 7, that the workman concerned had not produced any such authentic evidence. Besides this the allegations made in paras 6 and 7 of the written statement of the workman have been denied by the management.

8. As the case of the management stands, it is claimed that by Office Order dated 17-5-78 issued by the General Manager (Personnel) it was laid down that for those employees whose age had not been assessed or who had not furnished any document relating to their date of birth, their age should be determined by an Age Assessment Committee. There was also a settlement with the two Unions on 21-2-78 that the workman who represented for age assessment by an appeal to the management, should also be examined by the aforesaid Committee. In accordance with this Sh. Nurul Haque was examined by the Committee on 19-9-79 and his age, as on that date, was assessed to be 54 years, which decision was communicated to the workman concerned and in token of having been so informed, the workman had put his thumb impression on the Age Assessment Report. As per that assessment the date of birth of the workman was determined to be 19-9-1925 according to which he was to superannuate with effect from 19-9-85.

9. It is admitted that when the workman was served with notice for superannuation, he made a representation, and he was summoned to appear before the Personnel Manager. The workman did not do that. He was given another chance to appear before the Age Review Committee on 21-9-85 which he did. The Committee examined the documents of Nurul Haque on 21-9-85 and found that there was no merit in his case hence his prayer was rejected.

10. The management has justified its action.

11. The points for consideration, firstly, is whether the action of the management in retiring the workman with effect from 19-9-85 was justified and, secondly, if not, to what relief the concerned workman is entitle



12. Coming to the first point it may be mentioned that though the management has not examined any witness the workman had produced one Tej Mohammad Ansari, Ex-Teacher, Berom Maktav, who proved the transfer certificate issued in favour of Nurul Haque which was marked Ext. W-2. The endorsement of verification by the Block Education Extension Officer was marked Ext. W-2/1 and the counter signature of the District Education Officer was marked Ext. W-2/2. Photo copy of the school register was marked Ext. W-3, though the witness claimed that he also had brought original school register.

13. This witness admitted in cross-examination that the school certificate was verified by the Block Education Extension Officer on 8-8-88 and after that it was verified by the District Education Officer. These dates are vital.

14. There are many documents brought on the record but most of those are not very relevant for deciding this dispute.

15. Ext. M-1 is the office circular dated 14-2-72 providing for constitution of Age Committee for those employees whose age was not assessed and who had not declared their date of birth also for the purpose of CMPF. Ext. M-2 is another circular dated 4-9-78 relating to constitution of the Age Committee and the Appellate Authority relating to determination of age. Ext. M-4 is another circular dated 6-2-81 relating to the procedure for determination/verification of the age. This says that the decision of the Committee would be final and binding. Ext. M-5 is the service register of the workman in which his date of birth has been noted 19-9-35 as per assessment done for him.

16. Ext. M-6 is the retirement notice sent to several workman including the concerned workman who is at serial no. 75.

17. Ext. M-7 is a letter of Dy. CME., Bokaro Colliery addressed to the Personnel Manager (B&K), Kargali dated 18-6-85 forwarding service-sheets and applications of seven workmen including Nurul Haque who had applied for age review through Age Appellate Committee. This document would show that Nurul Haque had made his application on 18-2-85. Ext. M-8 is the notice issued to the workman including Nurul Haque about the sitting of Age Review Committee. This notice is dated 4-7-85. Ext. M-9 is another such notice dated 6-7-85 issued to some of the workmen including the concerned workman giving another date of sitting of the Committee. Ext. M-10 is also similar notice dated 10-9-85. Ext. M-11 is communication of Personnel Manager (B&K), Kargali issued to the Project Officer of Bokaro Colliery dated 27/5 (year illegible) returning the service-sheets of eleven employees including the concerned workman stating therein that the case of those workmen could not be considered because their age had already been assessed/reviewed earlier. Ext. M-12 is the communication to Nurul Haque about rejection of his appeal by the Appellate Age Review Committee.

18. Ext. W-1 is the letter through which the sponsoring Union had raised dispute in this regard before the Asstt. Labour Commissioner (Central), Hazaribagh.

19. It appears from Ext. M-7 that Nurul Haque had filed application for age review on 18-2-85. He has claimed that transfer certificate was filed by him before the Age Review Committee and, on demand of the Committee, he had got that certificate authenticated by two officials as stated above. From the averments in para 7 of the written statement of the workman it would appear that the management had rejected the representation of the workman and had superannuated him with effect from 19-9-85. This would show by implication that the management had rejected his representation before retiring him on 19-9-85. From averment in para 9 of the written statement of the management it would appear that he concerned workman had appeared before the Age Review Committee on 21-9-85 when the Committee had examined his documents and found no merit in his case in view of the age determination already carried out on 19-9-79. The decision of the Committee was conveyed to the Project Officer of Bokaro Colliery by letter dated 27-5-86.

20. These dates are important because from these averments it would appear that the workman had appeared before the Committee on 21-9-85. The Committee could have considered the school certificate if that was filed before it by that date. The workman has claimed in its written statement that it was so filed, and the management has denied it in its written statement as already stated.

21. That school certificate is Ext. W-2 in which the date of issuance of the certificate has been given to be 30-4-86. The date of verification by Block Education Extension Officer would appear to be 25-4-88, though the workman's witness No. 1 has said it to be 8-8-88. However, this witness has admitted that it was only thereafter that the District Education Officer had verified this certificate. A certificate that was issued on 30-4-86 and verified in April, 1988 by one official and thereafter countersigned by another, could in no circumstance have been filed before the Appellate Committee/Age Review Committee on or before 21-9-85.

22. This also suggests that when in February, 1985 the workman had filed his representation, the certificate of the school could not have been filed along with that.

23. Therefore, when the age of the concerned workman was already assessed by a Committee, and when, seemingly, no proof whatsoever was produced by the concerned workman before the Review Committee, the management could not but have retired the concerned workman with effect from 19-9-85 on the basis of assessment of his age made by the Age Assessment Committee on 19-9-79.

24. It may be noted here that attached to Ext. M-1 is photo copy of a report of Age Committee dated 19-9-79 which found his age to be 54 years as on that date. Below that there is thumb impression of the workman over the printed endorsement stating that his assessed age and particulars had been explained to him in Hindi and he fully accepted his age as assessed by the Age Committee.

25. Under the circumstances when the workman even till the date of his superannuation as per official

record, hand not furnished any proof whatsoever about his date of birth as claimed by him, the management was justified in superannuating him with effect from 19-9-85, basing his age on the assessment of the age Committee.

26. Having held as aforesaid, I also, however, must add that had the workman given the certificate from the school in Ext. W-2 at the time of filing his application for review of his age, that would have been a very good document which might have compelled the Review Authority even to hold in favour of the workman. This certificate coupled with extract of the register of the school (Ext.W-3) which also has been verified by the Block Education Extension Officer, would have been a good proof of his age. I don't find anything on the record to show that the document in Ext. W-2 in any way can be doubted upon.

27. But at the same time it must be held that by the time Nurul Haque was superannuated from service according to the age determined by the Age Committee, Ext. W-2 could not have been filed with the management. Therefore, according to the terms of reference, on the date the workman was superannuated, the management was justified in superannuating him on that date, i.e., on 19-9-1985. Therefore, the award of the Tribunal must go in favour of the management. However, the management would be free to consider any sort of relief which it may grant under rules to the workman in view of the school certificate in Ext. W-2 and my observations regarding the certificate. But this observation should not be treated as a part of the award or binding upon the management.

28. The award, therefore, is,—that the action of the management of Bokaro Colliery of M/s. Central Coalfields Ltd. in retiring Sh. Nurul Haque with effect from 19-9-1985 was justified. The workman is entitled to no relief.

Under the circumstances of the case, there would be no order as to cost.

P. K. SINHA, Presiding Officer

नई दिल्ली, 24 मई, 1995

का० आ० 1689—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, ऑयल एण्ड नैचुरल गैस कमिशन के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-5-95 को प्राप्त हुआ था।

[संख्या एल-30012/39/90-आई आर (विविध)/  
आई आर (कोल-I)]  
ब्रज मोहन, डैस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1689.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New

Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Commission and their workmen, which was received by the Central Government on 23-5-1995.

[No. L-30012/39/90-IR (VIVIDH)/IR(Coal I)]  
BRAJ MOHAN, Desk Officer.

#### ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING  
OFFICER, CENTRAL GOVERNMENT INDUS-  
TRIAL TRIBUNAL, NEW DELHI  
I.D. No. 61/91

In the matter of dispute :

#### BETWEEN

Shri Satish Chandra Dwivedi,  
S/o. Shri B. N. Dwivedi,  
24, Krishan Nagar,  
Dehradun-248 001.

#### Versus

The Chairman,  
Oil & Natural Gas Commission,  
Tel Bhawan,  
Dehradun Cantt-248 001.

#### APPEARANCES.

Shri R. P. Goel for the workman.  
Shri S. S. Tomer for the management.

#### AWARD

The Central Government in the Ministry of Labour vide its Order No. L-30012/39/90-IR(Vividh) dated 23-4-1991 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of ONGC, Dehradun in terminating the services of Shri Satish Chandra Dwivedi, S/o. Shri B. N. Dwivedi, contingent Workers w.e.f. 19-2-1987 (A.N.) is legal and justified. If not, to what relief is the workman entitled?"

2. The case was fixed today for management evidence when a written application was filed by the authorised representative of the workman stating therein that inspite of letters and notices having been sent to the workman he has neither responded back nor contacted him so far. He further stated that the workman does not appear to be interested in continuing with the dispute any more and, therefore, the dispute may be closed and no dispute award may be given in this case.

3. In view of this application and the statement of the workman representative recorded on oath the no dispute award is given in this case leaving the parties to bear their own costs.

GANPATI SHARMA, Presiding Officer.  
24th April, 1995.

नई दिल्ली, 24 मई, 1995

का० आ० 1690—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय

सरकार, ऑयल एण्ड नेचुरल गैस कमीशन के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-5-95 को प्राप्त हुआ था।

[संख्या एल-30012/9/89-आई आर (विविध)/आई आर (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1690.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Commission and their workmen, which was received by the Central Government on 23-5-1995.

[No. L-30012/9/89-IR(Vividh)|IR(Coal-1)]  
BRAJ MOHAN, Desk Officer.

#### ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI  
I.D. No. 29/90

In the matter of dispute :

#### BETWEEN

Shri Anil Kumar,  
S/o. Shri Harbans Lal,  
Wing No. 7, Barrack No. 20,  
Prem Nagar, Dehradun-248 007.

Through, The Joint Secretary,  
ONGC, Karamchari Union,  
87-1/1, Ballupur, Dehradun-248 001.

#### Versus

The Chairman,  
Oil & Natural Gas Commission,  
Tel Bhawan, Dehradun-248 003.

#### APPEARANCES :

Shri R. P. Goel for the workman.  
Shri S. S. Tomer for the Management.

#### AWARD

The Central Government in the Ministry of Labour vide its Order No. L-30012/9/89-I.R. (Vividh) dated 9th September, 1989 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of ONGC, Dehradun in terminating the services of Shri Anil Kumar S/o. Shri Harbans Lal, Guard w.e.f. 1-9-1988 is justified. If not, what relief is the workman entitled to?"

2. The case was fixed for management evidence when a written application was filed by the authori-

sed representative of the workman stating therein that inspite of letters and notices having been sent to the workman he has neither responded back nor contacted him so far. He further stated that the workman does not appear to be interested in continuing with the dispute any more and, therefore, the dispute may be closed and no dispute award may be given in this case.

3. In view of this application and the statement of the workman representative record, on oath the no dispute award is given in this case leaving the parties to bear their own costs.

24th April, 1995.

GANPATI SHARMA, Presiding Officer.

नई दिल्ली, 24 मई, 1995

का० आ० 1691.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑयल एण्ड नेचुरल गैस कमीशन के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-5-95 को प्राप्त हुआ था।

[संख्या एल-30012/37/89-आई आर (विविध)  
आई आर (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi 24th May, 1995

S.O. 1691.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Commission and their workmen, which was received by the Central Government on 23-5-95.

[No. L-30012/37/89-IR(Misc)|IR(Coal-I)]  
BRAJ MOHAN, Desk Officer

#### ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 48/90

In the matter of dispute between :

Shri Anoop Singh Rawat,  
S/o. Shri Chandan Singh Rawat,  
245-B, Nageshwar, Dakra Bazar,  
Dehradun Cantt.-248003.

#### Versus

The Chairman,  
Oil & Natural Gas Commission,  
Tel Bhawan,  
Dehradun Cantt.-248003

#### APPEARANCES :

Shri R. P. Goel for the workman.  
Shri S. S. Tomer for the Management.

## AWARD

The Central Government in the Ministry of Labour vide its Order No. L-30012/37/89-I.R.(Misc) dated 25th April 1990 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the management of Oil & Natural Gas Commission, Dehradun in terminating the services of Shri Anoop Singh Rawat, Class IV employee w.e.f. 1-12-85 is justified ? If not, what relief is the workman entitled to ?”

2. The case was fixed today for Management evidence when a written application was filed by the authorised representative of the workman stating therein that in spite of letters and notices having been sent to the workman he has neither responded back nor contacted him so far. He further stated that the workman does not appear to be interested in continuing with the dispute any more and, therefore, the dispute may be closed and no dispute award may be given in this case.

3. In view of this application and the statement of the workman representative recorded on oath the no dispute award is given in this case leaving the parties to bear their own costs.

24th April, 1995.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 24 मई, 1995

का०आ०1692.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै० सेंट्रल कोलफील्ड्स लि० की तोपा कोलियरी के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं० 2), धनबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 23-5-95 को प्राप्त हुआ था।

[संख्या एन-24012/193/86-डी-4(बी)/आई आर (कोल-I)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1692.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Topa Colliery of M/s. C.C.L. and their workmen, which was received by the Central Government on 23-5-95.

[No. L-24012(193)|86-DIV(B)|IR(Coal.I)]  
BRAJ MOHAN, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD  
PRESENT :

Shri D. K. Nayak, Presiding Officer

In the matter of an Industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 211 of 1987

PARTIES :

Employers in relation to the management of Topa Colliery of M/s. C.C. Ltd., P. O. Topa (Hazaribagh) and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 16th May, 1995

## AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(193)|86-DIV(B), dated, the 6th July, 1987.

## SCHEDULE

“Whether the action of the management of Topa Colliery of M/s. C.C.L. P. O. Topa, District Hazaribagh in not paying 37 days wages to Sri Hari Singh, P. R. Trammer when he has been reinstated by the management considering their own fault, is legal and justified ? If not, to what relief the concerned workman is entitled ?”

2. This reference is pending since 1987. It reveals from the records of this case that on several dates registered notices were duly served upon the workmen for their appearance and necessary steps but the workmen neither turned up nor took any steps. The learned Advocate representing the management all along made his appearance. Therefore, it leads to draw an inference that there is no dispute existing between the workmen and the management at present. In the circumstances, I have no other alternative than to pass a ‘No dispute’ Award in this reference.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 24 मई, 1995

का०आ०1693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै० इंडियन आयरन एण्ड स्टील कम्पनी लिमि० की चासनाला कोलियरी के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं० 1), धनबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 22-5-95 को प्राप्त हुआ था।

[संख्या एन-20012/360/90-आई आर (कोल-I)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1693.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Chasnalla Colliery of M/s. IISCO and their workmen, which was received by the Central Government on 22-5-95.

[No. L-20012/360/90-IR(Coal-I)]  
BRAJ MOHAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1) (d) of the Industrial Disputes Act, 1947.

Reference No. 26 of 1992

#### PARTIES :

Employers in relation to the management of Chasnalla Colliery of M/s. Indian Iron & Steel Co. Ltd.

AND

Their Workmen

#### PRESENT :

Shri P. K. Sinha, Presiding Officer

#### APPEARANCES :

For the Employers : Shri R. S. Murthy, Advocate.

For the Workmen : Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 5th May, 1995

#### AWARD

By Order No. L-20012/360/90-IR(Coal-I) dated 2-4-92 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal.

"Whether the action of the management of Chasnalla Colliery of M/s. Indian Iron and Steel Co. Ltd., in treating Shri Muso Mistry as having voluntarily retired is justified? If not, to what relief is the workman entitled?"

2. A petition had been filed signed on behalf of the management as well by the concerned workman that the workman had agreed to withdraw the dispute and the management had agreed to pay all the legal dues admissible and payable to the concerned workman within seven days.

3. Shri D. Mukherjee appearing on behalf of the sponsoring Union had rightly pointed out that since the dispute was raised by the Union, the concerned workman in his individual capacity had no right to withdraw the reference. However, in view of the fact that the matter had been amicably settled and the

workman was to get his dues, both sides submitted that a 'no dispute' award be rendered.

4. Under such circumstances I find that now there exists no dispute between the management and the workman, hence I render a 'no dispute' award in this reference.

P. K. SINHA, Presiding Officer

नई दिल्ली, 24 मई, 1995

का.ग्रा. 1694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, आयल एण्ड नैचुरल गैस कमीशन के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-5-95 को प्राप्त हुआ था।

[संख्या एल-30012/19/87-डी-3(वी)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil and Natural Gas Commission and their workmen, which was received by the Central Government on 23-5-1995.

[No. L-30012/19/87-D-III(B)]

BRAJ MOHAN, Desk Officer

#### ANNEXURE

#### BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 62/89

In the matter of dispute between :

Shri Sukhdev Sharma C/o Shri B. N. Mishra, Station Master, Raiwala Station, Distt. Dehradun

VERSUS

The Chairman, ONGC, Tel Bhawan, Dehradun.

#### APPEARANCES :

Shri R. P. Goel for the workman.

Shri S. S. Tomer for the Management.

#### AWARD

The Central Government in the Ministry of Labour vide its Order No. L-30012/19/87-D. III(B), dated 20/26-11-87 has referred the following industrial dispute to this Tribunal for adjudication ;

"Whether the action of the Management of Oil and Natural Gas Commission, Dehradun in termination of services of Shri Sukhdev Sharma w.e.f. 1-12-86 is justified? If not, to what relief the workman is entitled?"

2. The case was fixed for Management evidence today at Dehradun when a written application was filed by the authorised representative of the workman stating therein that inspite of letters and notices having been sent to the workman he has neither responded back nor contacted him so far. He further stated that the workman does not appear to be interested in continuing with the dispute any more and, therefore, the dispute may be closed and No dispute award may be given in this case.

3. In view of this application and the statement of the workman representative recorded on oath the No Dispute award is given in this case leaving the parties to bear their own costs.

24th April, 1995.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 24 मई, 1995

का.आ. 1695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, कलकत्ता पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-95 को प्राप्त हुआ था।

[संख्या एल-32012/11/92-आई.आर. (विबिध)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1695.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Calcutta Port Trust and their workmen, which was received by the Central Government on 24-5-1995.

[No. L-32012/11/92-IR(Misc)]  
B. M. DAVID, Desk Officer

#### ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 16 of 1993

#### PARTIES :

Employers in relation to the management Calcutta Port Trust.

AND

Their Workmen.

#### PRESENT :

Mr. Justice K. C. Jagadeb Roy

Presiding Officer

#### APPEARANCE :

On behalf of Management—None.

On behalf of Workmen—None.

STATE : West Bengal INDUSTRY : Port

#### AWARD

By Order No. L-32012/11/92-IR(Misc), dated 29-1-93/3-2-93 the Central Government in exercise of its powers under Section 10(1)(d) and sub-section (2A) of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of Calcutta Port Trust in imposing the punishment of reduction of pay for a period of one year with certain other conditions on Shri Rajpat Prasad Ahir, Cargo Overseer justified? If not, to what relief the workman is entitled to?"

2. Even though the case is of the year 1993 and the notice has been made sufficient on both the parties, none of the parties has yet filed their written statement nor has adduced any evidence in the case.

3. Since it is impossible for any Tribunal to adjudicate upon any demand without evidence on record and there is no materials in the record for the Tribunal to hold that any of the parties has unfairly prevented to come before this Tribunal or had unfairly given up their demands, I pass a "No Dispute" Award in the case.

The reference is disposed of accordingly.  
Dated, Calcutta,

The 8th of May, 1995.

K. C. JAGADEB ROY, Presiding Officer

नई दिल्ली, 24 मई, 1995

का.आ. 1696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-5-95 को प्राप्त हुआ था।

[संख्या एल-12012/212/91-आई आर बी-2]  
बी.के. शर्मा, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1696.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the

Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workmen, which was received by the Central Government on 23-5-95.

[No. L-12012/212/91-IR(B-II)]  
V. K. SHARMA, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 44 of 1991

#### PARTIES :

Employers in relation to the management of UCO Bank.

#### AND

Their Workmen

#### PRESENT :

Mr. Justice K.C. Jagadeb Roy,  
Presiding Officer.

#### APPEARANCE :

On behalf of Management : Mr. H.R. Khan,  
Legal Retainer of the Bank.

On behalf of Workmen : None.

STATE : West Bengal INDUSTRY : Banking

#### AWARD

By Order No. L-12012/212/91-IRB.DI dated December 11, 1991, the Central Government in exercise of the powers under section 10(1)(d) and sub-section (2A) of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication :

"Whether the claim of Shri Abdul Rahim Ansari that he was an employee of UCO Bank, Ballegunj Branch from 26-6-89 to 22-4-90 is correct ? If so whether termination of his service w.e.f. 23-4-90 was justified ? What relief, any, is the workman entitled to ?"

2. Parties have filed their written statement but no evidence has been led by either party, nor any document has been filed by either of them. The management however had entered appearance in this case through their Deputy Chief Officer Mr. Mondal and the Legal Retainer Mr. Khan. But the workman has not yet entered appearance in the case, even though the notice was made sufficient on the workman as apparent from the order dated 30-6-1993.

3. This is a reference case of the year 1991 and the workman has taken no steps to lead evidence in support of his contention, even though a peti-

tion is filed on 3-5-1995 on behalf of the management stating that the said Abdul Rahim Ansari the person named in the reference was not an employee of the Bank and there was no employer and employee relationship between the Bank and Mr. Ansari.

4. From the conduct of the workman, I am satisfied that he has given up his demands. I also do not find anything from the records that such demands were unfairly given up by the workman.

5. In such view of the matter, I hold that there is no subsisting dispute between the workman and the management and accordingly pass a "No dispute" Award.

The reference is accordingly disposed of.

Dated, Calcutta, the 8th May, 1995

K. C. JAGADEB ROY, Presiding Officer

नई दिल्ली, 24 मई, 1995

का.आ. 1697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी. ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, 2, बम्बई को पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-5-1995 को प्राप्त हुआ था।

[संख्या एल-17012/38/94-आई आर बी-2]  
बी.के. शर्मा, डेस्क अधिकारी

New Delhi, the 24th May, 1995

S.O. 1697.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, 2 Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workmen, which was received by the Central Government on 23-5-95.

[No. L-17012/38/94-IR(B-II)]  
V. K. SHARMA, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. 2, BOMBAY

#### PRESENT :

Shri S. B. Panse,  
Presiding Officer

Reference No. CGIT-2/4 of 1995

Employers in relation to the management of Life Insurance Corporation of India

#### AND

Their Workmen

**APPEARANCES :**

For the employers : 1. Mr. Deshmukh 2. Mrs. Sankpal; representatives.

For the Workmen : Shri M.A. Deshpande.

Bombay, dated 8th May, 1995

**AWARD**

The Government of India, Ministry of Labour, New Delhi by its letter No. L-17012|38|94-IR (B-II) dated 12-1-1995 had referred to this Tribunal the following industrial dispute for adjudication.

“Whether the action of the management of LIC of India, Satara in imposing the punishment of ‘Censure’ on Shri M.A. Deshpande, Asstt. and treating the period of suspension from 26-2-1993 to 28-2-1993 as Dies-non and from 1-3-1993 to 8-4-1993 as Privilege Leave is justified? If not, what relief is the said workman entitled to?”

2. In response to the notice sent to the concerned parties the President, Satara Division Insurance Workers’ Organisation, Satara had sent a letter dated 21-4-1995 informing the Tribunal that “the Union has decided to withdraw the above mentioned case. Please dispose of the case as closed.” So far as the employers i.e. LIC of India is concerned, they had sent a letter informing that the notice is sent to legal department, Zonal Office, Bombay but nobody appeared before the Tribunal on their behalf.

3. In view of the letter of the President of the Union, (Ex.2) nothing is to be decided in this matter. In the result I pass the following order.

**ORDER**

The action of the management of LIC of India, Satara in imposing the punishment ‘Censure’ on Shri M.A. Deshpande, Asstt. and treating the period of suspension from 26-2-1993 to 28-2-1993 as dies-non and from 1-3-93 to 8-4-93 as Privilege Leave is justified.

No order as to cost.

S. B. PANSE, Presiding Officer

नई दिल्ली, 25 मई, 1995

का.प्र. 1698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-5-95 को प्राप्त हुआ था।

[सं. एल-12012/207/89-आई धार बी आई]

पी.जे. माईकल, डेस्क अधिकारी

New Delhi, the 25th May, 1995

S.O. 1698.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on the 25-5-95.

[No. L-12012|207|89-IRBI]

P. J. MICHAEL, Desk Officer

**ANNEXURE**

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT|LC(R) (243)|1989

**BETWEEN**

Shri Madhav A Gore, A|154, Man Sarovār Colony, Shahpura, Bhopal (MP).

**AND**

The Chief General Manager, State Bank of India, Hamidia Road, Bhopal (MP).

**PRESIDED IN :** By Shri Arvind Kumar Awasthy.

**Appearances :**

For Workman : Shri A. K. Shasi, Advocate.

For Management : Shri R. Maindiretta, Advocate.

**INDUSTRY: BANKING**

**DISTRICT: Bhopal (MP)**

**AWARD**

Dated: May 1st 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012|207|89-IR(B-3) dated 20-11-1989, for adjudication of the following industrial dispute:

**SCHEDULE**

“Whether the dismissal of Shri Madhav A Gore, Ex-Clerk/Typist by the management of State Bank of India, Bhopal w.e.f.16-10-95 is justified or not? If not, to what relief the workman is entitled to?”

2. Admitted facts of the case are that Shri Madhav A Gore was working as a Clerk in the State Bank of India, T. T. Nagar Branch, Bhopal and on 20-1-1978 Draft No. 196506 dated 20-1-1978 of Rs. 5000 in the name of Shri K. B. Singh was prepared and the payment was made by the Bank. It is also not in dispute that the preliminary enquiry was conducted against the workman on the basis of a complaint dated 1-3-78 by Shri D. B. Singh and the matter was reported to the police. It is also not in dispute that the workman made confession unilaterally of preparing the false Bank Draft and received the amount of Rs. 5000. It is also a common ground that the domestic enquiry was conducted



and the Disciplinary Authority by order dated 16-10-1985 dismissed the applicant from the service.

3. The case of the management is that the workman, Madhav A Gore, while working at T. T. Nagar Branch of the State Bank of India fraudulently encashed a Bank Draft of Rs. 5000 by cancelling and pocketed the proceeds; that on preliminary enquiry made by the Branch Manager, the workman not only confessed in writing his guilt on 25-1-78, but he has also refunded the amount of Rs. 5000 that on 21-8-78 the workman submitted his resignation in order to escape from liability; that the management submitted the charge-sheet on 30-12-1978 and Shri A. K. Majumdar, Staff Officer, conducted the departmental enquiry; that on objection of the workman, Shri D. L. Motwani was appointed as the Enquiring Officer and during the enquiry the statement of handwriting expert, Shri C. T. Servate, was recorded to the effect and signatures of Shri D. B. Singh was forged by the workman; that the workman also examined the handwriting expert, Shri Gandhe that the Enquiry Officer submitted his report to the Disciplinary Authority and the Disciplinary Authority found that the charges proved against the workman after issuing the show cause notice passed an order dated 16-10-1985 for dismissal of the workman; that the appeal filed by the workman to the General Manager was also dismissed; before the Hon'ble High Court the workman filed the petition challenging the legality and validity of the order of dismissal dated 16-10-1985 which was dismissed.

4. The management submitted that looking to the gravity of the charges the order of dismissal was passed and there is no illegality in the act of the management.

4. The case of the workman is that on 20-1-1978 Shri D. B. Singh purchased D.D. for Rs. 5000 and it was handed over to Shri D. B. Singh; that he (Madhav A Gore) identified Shri D. B. Singh on the request of the Accountant of the Bank. The workman has alleged that during the preliminary enquiry conducted by the Branch Manager, Shri N. D. Sapre the workman was threatened with the dire consequences and the report to the police was made and the workman made the confession in writing under the threat and in order of save his reputation. The workman has alleged that the Enquiry Officer has not properly considered the statement of the management's witnesses and the material witness, Shri N. D. Sapre before whom the alleged confession was not made have not been examined inspite of repeated request by the workman; that the Enquiry Officer has also refused the prayer for production of certain documents, deposit voucher of Rs. 5000 and that the workman was not permitted to adduce his defence witness; that the enquiry delayed for seven years, that the finding of the Enquiry Officer has vitiated due to the non-examination of the material witness viz. D. B. Singh and N. D. Sapre. The workman has prayed for the cancellation of the order of dismissal and prayed reinstatement with full back wages.

5. Following are the issues framed by my learned predecessor :—

## ISSUES

1. Whether the departmental/domestic enquiry is proper and legal ?
2. Whether the management is entitled to lead evidence before this Tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?
4. Whether the punishment awarded is proper and legal ?
5. Relief and costs ?
6. My learned predecessor vide order dated 16-3-1992 has held that the departmental enquiry was just, legal and proper and the case was posted for arguments on the issue Nos. 3 to 5 regarding the perversity of findings and quantum of punishment.
7. From the persual of the statement of claim filed by the workman, it is clear that the workman has admitted that he made the confession of his guilt in writing. The workman has also admitted in para 8 & 9 of his statement of claim that he identified signatures of Shri D. B. Singh. It is clear from the statement of claim that the workman, Shri Gore, did not know Shri D. B. Singh and even then he identified signatures of Shri D. B. Singh. Hand Writing Expert, Shri C. T. Servate, has clearly stated that Bank Draft No. 196506 dated 28-1-1978 for Rs. 5000/- was examined by him and on the back of the Bank Draft, received payment by Cancellation was the hand writing of the workman, Shri Gore. Consequently, the confession in writing by the workman is fully corroborated by the two vital facts i. e. the forged signatures on the Demand Draft by the workman of the receipt of Rs. 5000/- and secondly by the fact that Rs. 5000/- was deposited by the workman. This circumstance that the workman tendered his resignation is also lend support to the extra judicial confession in writing made by the workman. The service of the bank is lucrative and an employee during enquiry will not submit his resignation. Consequently, the contention of the Counsel for the management appears to be just and proper that the workman in order to escape from the criminal liability submitted his resignation.
8. In case of Bhagwan Rana Vs. State of Haryana (AIR 1976 SC 1797) similarly the Sub-Postmaster who was charged in the enquiry of theft of watch in the parcel, admitted the guilt in writing in course of enquiry and it was held that extra judicial confession along with the attendant circumstances are sufficient to convict and sentence him for offence punishable under Sec. of the Post Office Act. There is nothing on record to show that extra judicial confession made by the workman in writing was on account of duress or threat or in the misrepresentation. Extra judicial confession is fully corroborated by the act of the workman of depositing the amount of Rs. 5000/- by the act of forging the signatures of the Bank on the back of Bank Draft by his act of identifying Shri D. B. Singh who was not known to him and lastly by the fact that he tendered his resignation.
9. The Enquiry officer has discussed the statement of P.W. 1 and other witnesses and in concluding paragraph reached to the following findings :

"On analysing the evidence brought on record through P.W. 1, it is found that (i) letter of Shri D. B. Singh for delivery to him of the draft for Rs. 5000/- purchased by him was not attended to at the Branch till 15-6-1978 ; (ii) the person who had signed and written received payment by cancellation was identified by Shri M. A. Gore,— Sri Gore could not trace & identify this person. Obviously, it was not the real Sri D.B. Singh as Shri Gore accompanied the real Shri D. B. Singh to trace the person who had signed as Shri D. B. Singh and was identified by Shri Gore (Page 18 dated 12-6-1980) ; (iii) the purchaser of the draft Shri D. B. Singh called at the Branch on 18-7-1978 and complained of non receipt of the draft as he had done in his letter marked as D Ex. 3 ; (iv) on 20-1-1978 and 1-3-1978, the dates on which the said draft was issued and paid by cancellation, Shri Gore was working on draft issue counter."

10. The aforesaid circumstances dealt in the report of the Enquiry Officer also corroborates the extra judicial confession made by the workman and proved the charges against the workman beyond reasonable doubt. Consequently, the fact that the material witnesses, D. B. Singh and N. D. Sapre were not examined by the enquiry officer is not of vital consequences in view of the admission by the workman that the extra judicial confession was signed by him and in view of the fact that it was made to the rightful authority. The burden was on the workman to show that the extra judicial confession in writing was made under the threat or duress and as such it was incumbent on the workman also to examine the material witnesses to discharge his burden to challenge the propriety of the extra judicial confession. There is overwhelming evidence against the workman of committing the serious misconduct of forging the Bank Draft and of the embezzlement of Rs. 5000/- and the findings of the learned enquiry officer and the disciplinary authority holding the charges proved is hereby confirmed.

11. The bank employee indulging in the commission of the offence of forging the Bank Draft and the embezzlement is undoubtedly a high risk and deserves in the industrial interest removal from the service without tears. The objection of the workman regarding the perversity of the findings and the quantum of punishment are hopeless and deserves to be rejected.

12. The action of the management of the dismissal of service of Shri Madhav A Gore is justified and the reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 25 मई, 1995

का.आ. 1699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दक्षिण रेलवे, मद्रास के प्रबंधन के संबद्ध नियोजकों

और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-5-95 को प्राप्त हुआ था।

[संख्या एल-41012/129/93-आईआर (डी. यू.) बी-I]  
पी.जे. माईकल, डेस्क अधिकारी

New Delhi the 25th May, 1995

S.O. 1699.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Southern Rly., Madras and their workmen, which was received by the Central Government on the 25-5-95.

[No. L-41012/129/93-IR(DU)|BI]

P. J. MICHAEL, Desk Officer.

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU, MADRAS

Monday, the 13th day of March, 1995

Present :—

THIRU K. PONNUSAMY, M.A.B.L.,  
INDUSTRIAL TRIBUNAL

INDUSTRIAL DISPUTE NO. 8/1994

(In the matter of the dispute for adjudication under Section 10(1) (d) of the Industrial Disputes Act, 1947 between the Workmen and the Management of Southern Railway, Madras).

#### BETWEEN

Shri A. Nanda Kumar,  
S/o Shri J. Arumugam,  
27, Netaji St., New Lakshmipuram,  
Madras-600099.

#### AND

Senior Personnel Officer (Engg.,  
Headquarters Office,  
Personnel branch,  
Southern Railway, Madras-600003.

#### REFERENCE :

Order No. L-41012/129/93-IR(DU), dated 7-2-94, Ministry of Labour, Govt. of India, New Delhi.

This dispute coming on for final hearing on Thursday, the 2nd day of March, 1995 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing of Thiruvalluvar R. Asathambi and T. Govindan, Advocates appearing for the Workman and the Management being absent, and set exparte, this Tribunal made the following

## AWARD

This reference has been made for adjudication of the following issue :

"Whether the action of the Management of Southern Railway, Madras, in terminating the services of Shri A. Nandakumar, Substitute Bungalow Peon to Chief Signal and Telecommunication Engineer, Construction Madras w.e.f. 4-12-91, by its order No. SG/211/91 dated 4-12-91 without holding enquiry is just, proper, legal and justified. If not, to what relief is the workman entitled to?"

2. The claim of the petitioner briefly stated is as follows :

Petition is filed to pass an award holding that the termination of the services of the petitioner by the respondent is not justified, and for reinstatement of the petitioner in service, with continuity of service, back wages and all other attendant benefits.

3. The respondent has remained exparte.

4. The issue for decision is :

"Whether the action of the Management of the Southern Railway, Madras in terminating the services of Shri A. Nandakumar, Substitute Bungalow Peon to Chief Signal and Telecommunication Engineer, Construction, Madras w.e.f. 4-12-91 by its order SG/211/91 dated 4-12-91 without holding enquiry is just, proper, legal and justified? If not, to what relief is the workman entitled to?"

5. The Issue : The petitioner was appointed as Bungalow Peon on the Scale of Pay of Rs. 750/- — Rs. 940/- in the bungalow of Jaganathan, the Chief Signal and Telecommunication Engineer, subject to certain conditions that if his service is unsatisfactory, he is liable to be terminated from service or in the case of officer not requiring his services or Officer is transferred or retired as per the Rules/orders in force, that he will be liable for regular absorption as a Bungalow Peon on the above said pay scale after one year of continuous service subject to availability of vacancy and other conditions being satisfactory and that after regular absorption, if he is not required in the bungalow, due to the transfer of the Officer concerned, he will be considered for transfer as peon for Office against the existing Class IV vacancy and he will seek further promotions only with other office peons as per the existing channel of promotion and this is on the approval of the competent authority and he joined duty on 12-4-91 is borne out by Ex. W-1. He was terminated from service w.e.f. 4-12-91. The petitioner approached the concerned Officer Jagannathan, on alternative days. The concerned Officer orally informed the petitioner that he will be provided with job. But petitioner was not provided with job. The services of the petitioner were terminated from 4-12-91 on the ground of unauthorised absence from duty, without any prior intimation, is evidenced by Ex. W-7. Before the termination of the services of the petitioner, show cause notice was

issued to the petitioner to submit his explanation as to why disciplinary action should not be taken against him on or before 8-11-91, is evident from Ex. W-2. The petitioner wrote a letter to the Officer concerned to treat his unauthorised absence as on duty is disclosed by Ex. W-3. His services were terminated w.e.f. 4-12-91, is established by Ex. W-4. He preferred an appeal to the Senior Personnel Officer and no reply was received from the Appellate Authority by the petitioner is revealed by Ex. W-6. The Senior Personnel Officer wrote the letter to the Officer concerned to issue Show Cause notice to the petitioner, to ensure the principles of natural justice, is not contravened, is made out by Ex. W-5. The petitioner wrote a letter to the Chief Personnel Officer viz., the Appellate Authority to pass orders to enable him to join as a bungalow peon or peon in any office, is made out by Ex. W-8. He preferred a petition before the Central Administrative Tribunal and it was dismissed on the ground that he should exhaust his remedy before the Industrial Tribunal, is established by Ex. W-9. The petitioner presented a petition to the Conciliation Officer u/s. 2-A of the Industrial Disputes Act, is supported by the Ex. W-10. The conciliation failed is proved by Ex. W-11.

6. No charge memo was issued to the petitioner. He was not given an opportunity to answer the charge memo issued to him. No enquiry was conducted which resulted in miscarriage of justice. The petitioner must be given an opportunity to put forth his case. Nobody should be condemned without being heard. No opportunity was given to the petitioner to explain his unauthorised absence from duty. The domestic enquiry was not conducted and charge memo was not issued to the petitioner and he was not given sufficient opportunity to explain the charges and as such it cannot be considered that the principles of natural justice is duly complied with by the Disciplinary Authority and as such is cannot be construed that the termination of the services of the petitioner is legal, valid and proper. The petitioner has given evidence that injustice is done to him. There is no evidence contra. For the foregoing reasons, this Tribunal comes to the conclusion that the action of the Management of the Southern Railway, Madras in terminating services of Sh. A. Nandakumar, Substitute Bungalow Peon, to Chief Signal and Telecommunication Engineer, (Construction) Madras w.e.f. 4-12-91 by this order no. SG/211/91 dated 4-12-91 without holding the enquiry is unjust, improper, illegal, and unjustified, and as such the petitioner is entitled to get an award holding that the termination of his services is not justified and he is entitled to reinstatement in service, with continuity of service, back wages and all other attendant benefits. The first part of the issue is found in the negative and the second part of the issue accordingly.

In the result, an award is passed setting aside the order of termination of the services of the petitioner and the respondent is directed to reinstate the petitioner in service with continuity of service and pay the back wages and grant all other attendant benefits. No costs.

Dated, this the 13th day of March, 1995.

THIRU K. PONNUSAMY, Industrial Tribunal

Witnesses examined

was received by the Central Government on the 25-5-1995.

For Workman :

W.W. 1 : Thiru A. Nandakumar (Petitioner-workman).

[No. L-12012/78/89-IRB-1]

P. J. MICHAEL, Desk Officer.

For Management : None

ANNEXURE

DOCUMENT MARKED

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT  
JABALPUR (M.P.)

For Workman :

Case Ref. No. CGIT/LC(R)(74)/1992

BETWEEN

Shri Damodar Prasad Kaurav, Ex-Peon C/o.  
Shri U. S. Malviya, Punjab National Bank,  
Nagpur Road, Madan Mahal, Jabalpur  
(M.P.)-482 001.

AND

The Chairman, Mahakaushal Kshetriya Gramin  
Bank, Head Office, 164, Shivaji Ward,  
Civil Lines, Narsinghpur, MP-487 001.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman.—Shri U. S. Malviya.

For Management.—Shri O. S. Rarolia, Officer.

INDUSTRY : Banking DISTRICT Narsinghpur  
(M.P.)

AWARD

Dated, the 12th May, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12011/78/89-IR/B-2/BIH dated 2-4-1992, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Mahakaushal Kshetriya Gramin Bank, Narsinghpur, in terminating the services of their workman Shri Damodar Prasad Kaurav, Ex-Peon, w.e.f. 31-7-1989 was justified, If not, to what relief the workman is entitled to?”

2. Admitted facts of the case are that Damodar Prasad Kaurav was appointed as a Messenger on daily wages in Shahpur Branch of the Bank.

3. The case of the workman is that as he worked from 7-3-1986 to 31-7-1989 and completed more than 240 days continuous service and he was suddenly terminated from service without notice or compliance of Section 25F of the I.D. Act, the workman is entitled to reinstatement with back wages.

4. The workman has filed an application dated 24-4-1995 in the Court along with the affidavit that he does not want to pursue the matter and ready to withdraw the case. The applicant has agreed for the regular fresh appointment and has given up back wages.

- Ex. W-1|12-4-91 : Appointment order issued to Thiru A. Nandakumar, (Petitioner-workman) for the post of Bungalow Peon. (Xerox copy).
- W-2|31-10-91 : Show Cause Notice issued to the Petitioner-workman.
- W-3|6-11-91 : Reply by the Petitioner-Workman to Ex. W-2.
- W-4|4-12-91 : Order of termination issued to petitioner workman (copy).
- W-5|9-10-91 : Order of Chief Personnel Officer Southern Railway, Madras-3.
- W-6|16-12-91 : Appeal preferred by the Petitioner-workman against his termination.
- W-7|21-1-91 : Reply by the Management to Ex. W-3.
- W-8|6-7-92 : Letter from Petitioner-workman to the Management in continuation of his appeal dated 16-12-91.
- W-9|14-9-92 : Order of Central Administrative Tribunal in O.A. No. 1176/92 (Copy).
- W-10|7-10-92 : 2-A petition filed by the Petitioner-workman before the Conciliation Officer, Madras (Xerox copy).
- W-11|13-10-93 : Conciliation Failure Report.
- For Management : Nil

नई दिल्ली, 25 मई, 1995

का.आ. 1700.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-5-95 को प्राप्त हुआ था।

[संख्या एल-12012/78/98-आई आर बी-

पी.जे. माईकल, डेस्क अधिकारी

New Delhi, the 25th May, 1995

S.O. 1700.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workmen, which

5. Management has also filed an application and agreed to provide the fresh appointment to the workman without the consequential benefits.

6. In view of the agreement between the workman and the management to provide the workman the job without consequential benefits, no dispute award is hereby passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 25 मई, 1995

का.आ. 1701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रिजर्व बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजक और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-5-95 को प्राप्त हुआ था।

[संख्या एल-12012/72/89-आई आर बी-1]

पी. जे. माइकल, डेस्क अधिकारी

New Delhi, the 25th May, 1995

S.O. 1701.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Reserve Bank of India and their workmen, which was received by the Central Government on the 25-5-95.

[No. L-12012/72/89-IRB-1]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA; PRESIDING OFFICER; CENTRAL GOVT. INDUSTRIAL TRIBUNAL; NEW DELHI

I.D. No. 46/90

In the matter of dispute between

Smt. Harkawal Hira,  
through the Secretary,  
Reserve Bank of India  
Employees Union (RBIEU)  
through R.B.I. Sansad Marg,  
New Delhi-110001.

Versus

Manager,  
Reserve Bank of India,  
Sansad Marg,  
New Delhi-110001.

APPEARANCES :

Shri S. L. Kaushik for the workman alongwith the workman.

Shri S. R. Mehendiratta for the management.

AWARD :

The Central Government in the Ministry of Labour vide its Order No. L-12012/72/89-I.R.(B.I) Bank II 1295 GI/95—12

dated 18-4-90 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the management of Reserve Bank of India, New Delhi, giving less pay to Smt. Harkawal Hira, Steno, in comparison to Shri R. L. Taneja, Steno though both having joined as typist on 1-8-1970 on the ground that Smt. Harkawal Hira was confirmed as steno earlier to Shri Taneja, was justified? If not to what relief the workman is entitled to?”

2. The case was fixed today for arguments when the workman representative made statement that Management has issued order No. M. S. Staff No. 1349/94/95 dated 3rd May, 1995 protecting the personal of the order passed by it parties shall bear their own costs of this dispute.

3. The representative for the management has also made statement that the grievances of the workman has since been settled and the orders passed by the management shall be implemented.

4. In view of the above situation the dispute stands settled in terms of the orders passed by the management attached with the application Ex. M1 of the workman which shall form part of this award. parties shall remain bound by the terms of Ex.M-1, in view of the order passed by it parties shall bear their own costs of this dispute.

GANPATI SHARMA, Presiding Officer.

BEFORE THE PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT, NEW, DELHI

In the matter of industrial dispute between Smt. Harkawal Hira Vs Reserve Bank of India ID No. 46 of 1990—Reply of the Reserve Bank of India to the application dated 13th January, 1995 made by the workman.

Most respectfully it is submitted that the Reserve Bank of India the opposite party in the case has taken a decision to grant personal pay to Smt. Harkawal Hira, Stenographer, the workman concerned by way of protection of her pay with reference to the pay drawn by Shri R. L. Taneja, Stenographer with effect from 1st Augst, 1979 the day on which Sh. Taneja got special pay on completion of nine years of service in the grade of Typist and started drawing higher pay than the workman concerned. Accordingly an Office Order ND. MS. Staff No. 1349/94/95 dated 3rd May, 1995 refixing the pay of Smt. Harkawal Hira, Stenographer P. F. Index No. DO-03 has been issued, a copy of which is enclosed herewith.

It is therefore prayed that the Award in the case may please be passed taking into consideration the compliance made by the Reserve Bank of India as per the judgement of Central Government Industrial Tribunal, Bombay in respect of Shri M. S. Bhosle, Stenographer. It is further requested that no cost may please be imposed on the Bank as it had acted all along bonafidely and in obedience and respect to the orders of the court the Reserve Bank of India has implemented the award given by Central Govt. Industrial Tribunal, Bombay mutatis mutandis in the instant case also.

(R. MENDIRATTA)  
Authorised Representative  
4th May, 1995

### RESERVE BANK OF INDIA

Staff Section  
6, Sansad Marg

New Delhi, the 3rd May, 1995

Office Order NDMS No. 1/1349/94-95  
Staff—Class III—Smt. Harkawal Hira, Stenographer  
(P.F. Index No. DO-03)? Revision/protection of pay  
by grant of Personal Pay in terms of Central Office  
letter DAPM No. 566/R(II)CP.165(3) A-94/95 dated  
27-4-95 with effect from 1st August, 1979.

The pay of Smt. Harkawal Hira, Stenographer  
(P.F. Index No. DO-03) has been refixed by grant of  
'Personal Pay' with reference to the pay drawn by  
Sh. R. L. Taneja, Stenographer, w.e.f. 1st August  
1979 in terms of Central Office letter referred to  
above. The existing/revised pay of Smt. Hira has been  
shown in the Annexure.

Establishment Section may please arrange to pay the  
arrears of pay and allowances to Smt. Hira at the  
earliest

SMT. GRACE KOSHIE, Dy. General Manager

### ANNEXURE

Pay of Smt. Harkawal Hira, Stenographer (P.F. Index  
No. DO-03) revised by grant of 'Personal Pay' in terms  
of Central Office letter DAPM No. 566/R(II)CP.  
165(3)-A-94/95 dated 27-4-95 w.e.f. 1st August,  
1979.

Date	Existing pay (Rs.)	Revised Pay (Rs.)
1	2	3
6-9-78	760	760
1-8-77	760	760
6-9-79	810	100 100 810
		PP 50
1-8-80	810	810
		PP 105
6-9-80	860	860
		55
1-8-81	860	860
		PP 110
6-9-81	915	915
		PP 55
2-8-82	915	915
		PP 115
9-8-82	970	970
		PP 60
1-7-83	1620	1620
		55
2-8-83	1620	1620
		PP 155
11-9-83	1620	1620
	PP 55	PP 155

1	2	3
2-8-84	1620	1620
	PP 55	PP 255
8-9-84	1720	1720
	PP 55	PP 155
2-8-85	1720	1720
	PP 55	PP 280
8-9-85	1820	1820
	PP 55	PP 180
2-8-86	1820	1820
	PP 55	PP 280
8-9-86	1820	1820
	SP 180	SP 180
		PP 100
2-8-87	1820	1820
	SP 180	SP 180
		PP 200
9-9-87	1820	1820
	SP 280	SP 280
		PP 100
1-11-87	3245	3245
	SP 490	SP 470
		PP 175
1-2-88	3245	3245
	SP 665	SP 665
2-8-88	3245	3245
	SP 665	SP 665
		PP 175
9-9-88	3245	3245
	SP 840	SP 840
2-8-89	3245	3245
	SP 840	SP 840
		PP 175
10-9-89	3245	3245
	SP 1015	SP 1015
1-1-90	3245	3245
	SP 1015	SP 1015
	ASP 65	ASP 65

नई दिल्ली, 26 मई, 1995

का.आ. 1702.—औद्योगिक विवाद अधिनियम, 1947  
(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार  
हार्डट्रोएलेक्ट्रीक के प्रबंधन के संबंध में निदेशों और उनके  
कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में  
केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट  
को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-95  
को प्राप्त हुआ था।

[सं. एल-42011/71/90-आई आर (डी यू)]  
बी.एम.डेविड, डेस्क अधिकारी

New Delhi, the 6th May, 1995

S.O. 1702.—In pursuance of Section 17 of the  
Industrial Disputes Act, 1947 (14 of 1947), the  
Central Government hereby publishes the award of  
the Central Government Industrial Tribunal Chandigarh as shown in the Annexure, in the Industrial  
dispute between the employers in relation to the  
employers in relation to the management of Hydro-  
electric which was received by the Central Govern-  
ment on 22-5-1995.

[No. L-42011/71/90-IR (DU)]  
B. M. DAVID, Desk Officer.

## ANNEXURE

BEFORE SHRI M. S. SULLAR, PRESIDING  
OFFICER, CENTRAL GOVERNMENT INDUS-  
TRIAL TRIBUNAL-CUM-LABOUR COURT,  
CHANDIGARH

Case No. I. D. 113/91

Ranjit Singh Vs. Salal Hydro Electricity Pro-  
ject.

For the workmen : Shri Kapoor Singh.

For the management : Shri V. K. Gupta

## AWARD

Dated : 6-4-1995.

The matrix of the facts culminating in the Com-  
mencement of the present reference are that the  
petitioner, Ranjit Singh, was working as a fitter grade  
in the pay scale of Rs. 330-560 in Birasuil Project  
under National Hydro electric Power Corporation  
Ltd. (in short NHPC). He opted for voluntary re-  
trenchment, to be accommodated in Salal Hydro  
Electric Project, Jyotipuram. In pursuance of the  
voluntary retrenchment scheme, he was appointed as  
Fitter grade I in SHEP but in the pay scale of  
Rs. 320-400. He has disputed the lesser pay scale  
and had raised the industrial dispute.

In the wake of industrial dispute, raised by the  
petitioner U/S 10 of the Industrial Disputes Act.  
(hereinafter to be referred as the Act.), the Central  
Government vide letter No. L-42011/71/90-IR(DU)  
dated 28-8-1991 has referred the following dispute  
to this Tribunal for adjudication :

"Whether the action of the General Manager,  
Salal Hydro electric Project in not granting  
benefit of encashment of leave to the work-  
charge employees at par with the regular  
employees of the Project is justified ? If  
not, what relief the workmen are entitled  
to and from what date ?".

"Whether the action of General Manager, Salal  
Hydro Electric Project, Jyotipuram in  
denying the pay scale of Rs. 330-560 to  
Shri Ranjit Singh Fitter Grade-I, w.e.f.  
17-11-1982 is justified ? If not, what  
relief the workman is entitled to and from  
what date ?".

At the out set, it is mentioned here that the autho-  
rised representative of the petitioner has given up the  
first relief, on the ground that the workmen a getting  
the benefit of leave encashment, in his recorded  
statement dated 23-12-1994. The only dispute  
remains to be resolved in this reference is about the  
pay scale of Ranjit Singh petitioner.

The case set up by the petitioner, in brief, in so  
far as relevant is that, he was getting the pay scale  
of Rs. 330-560 at the time of his retrenchment by  
the management of Birasuil Project under NHPC  
vide office order No. 2/15/P-IV|WC|82/574-75,  
dated 8-12-1981 but the management of Salal Project  
has appointed his Fitter grade I but has given the  
pay scale of Rs. 320-400. It is alleged that the  
action of the management is unfair labour practice

and step motherly treatment and against the natural  
justice. According to the petitioner, he is entitled  
to the grade of 330-560 instead of Rs. 320-400 on  
the same post of Fitter grade I. On the footing of  
aforesaid pleadings, the petitioner has claimed the  
aforesaid grade of Rs. 330-560 as indicated earlier.

The management has contested the claim of the  
petitioner and filed the written statement inter-alia  
pleading certain preliminary objections of maintain-  
ability of the reference petition, locus standing of the  
petitioner and objection of delay etc. However the  
management has admitted that petitioner was  
appointed in the pay scale of Rs. 320-400 as Fitter  
grade I at the time of his appointment. The pleaded  
case of the management is that the Birasuil Project  
under NHPC was an establishment of NHPC, while  
the management of Salal Project was fully owned  
by the Government of India. It is alleged that as  
per discharge certificate the petitioner was discharged  
by Birasuil Project on account of his having applied  
for voluntary retrenchment scheme in the pay scale  
of Rs. 330-560. The respondent (Project) offered  
him the post of Fitter grade I in the pay scale of  
Rs. 320-400 which he has accepted and his initial  
pay of Rs. 350/- was protected. According to the  
management, there was a negotiated settlement dated  
31-5-1986 by which the pay scale and designations  
were settled to be Nationalized and the pay scale of  
Rs. 260-350, 260-400 and Rs. 320-400 were merged  
and rationalized as Rs. 260-430 and accordingly,  
the petitioner was also placed in the pay scale of  
Rs. 260-350, 260-400 and Rs. 320-400 were merged  
here that the management has stoutly denied the  
other allegations of the petitioner in its written state-  
ment and in all it has been alleged that the petitioner  
is not entitled to the grade of Rs. 330-560. That  
being so, the management prayed for the dismissal  
of the reference petition.

Controverting the allegations of the management  
and reiterating his stand in the statement of claim,  
the petitioner filed the replication inter-alia pleading  
that the dispute was duly sponsored by the Union  
vide resolution No. 15-2-1990. It has been next  
stated by the petitioner that the both the Birasuil  
Project and Salal Project are functioning under the  
main control of principle employer of NHPC and as  
such petitioner is entitled to the pay scale of  
Rs. 330-560 with all other allied benefits.

The petitioner, in order to substantiate his claim  
appeared as his own witness as WW-1. The mana-  
gement got proved the option of the petitioner, Ex.  
M-1, copy of letter dated 12-11-1982, Ex M-2,  
copy of office order dated 8-12-1982, Ex. M-3,  
copy of joining report dated 8-12-1982 Ex. M-4  
and copy of discharge certificate Ex. M-5.

The management in order to rebutt the evidence  
brought on record by the workman, examined J. S.  
Dogra ts MW-1, who has tendered into evidence his  
affidavit Ex. M-6, copy of order in Service Writ  
petition No. 867/90 Ex. M-7, copy of office order  
dated 31-5-1986, Ex. M-8, and copy of office order  
dated 26-2-1982, Ex. M-9. The workman got  
proved the copy of office order No. 101/77, Ex.  
W-1, copy of letter dated 12-8-1981, Ex. M-2, copy

of letter dated 8-2-1983 Ex. W-3 and copy of office order dated 31-12-1983, Ex. W-4.

Having heard the representatives of the parties having gone through the evidence on record and after considering the matter deeply, to my mind, the reference petition deserves to be accepted.

As indicated earlier, according to the petition he was working as a Fitter Grade I in the pay scale of Rs. 330-560 in Birasuil Project under NHPC. But after his voluntary retrenchment, the management of Salal Project Jyotipuram allowed him the same job of Fitter Grade I in the pay scale of Rs. 320-400 and his pay deserved to be protected. He has so stated while appearing as WW-1. On the other hand, according to the management, that no doubt the petitioner was working as Fitter Grade I in the pay scale of Rs. 330-560 in Birasuil Project but he is not entitled to the same pay scale as he was freshly appointed as Fitter Grade I in Salal Hydro Electric Project. However it has been specifically mentioned in the affidavit Ex. M-6 that the management despite acceptance of offer of the petitioner, fixed his initial pay at Rs. 350 P.M. which he was getting at the time of his voluntary retrenchment. Thus it would be seen that the facts of the case are neither intricate nor in dispute. Now the short and significant question, though importer arises for determination in this case is whether the petitioner is entitled for nationalization of pay scale on the basis of pay scale of Rs. 330-560, which he was getting at the time of his voluntary retrenchment. Ex. 1 is the discharge certificate of the petitioner, which would go to show that petitioner was initially appointed in Birasuil Project of NHPC on 21-4-1975. He sought voluntary retrenchment when he was working as Fitter Grade I and was getting Rs. 350 as basic pay at the time of discharge in the pay scale of Rs. 330-560 & he is obedient and hard worker and bear good moral character. It has not been disputed that the management of NHPC New Delhi formulated a voluntary retrenchment scheme to mitigate the hardships of the workcharged employees likely to be rendered surplus completion and commissioning of the project and to provide certain monetary and other benefits to such employees, copy of which is Ex. M-9. Admittedly the petitioner sought the voluntary retrenchment under the said scheme to be accommodated in Salal Hydro Electric Project. The bare perusal of all the clauses of the said scheme would reveal that it was framed for the benefits of the employees, likely to be rendered surplus on completion of the project. It may be reiterated here that the petitioner was given appointment as Fitter Grade I in Salal Project vide appointment letter Ex. M-2 and Ex. M-3. The management has admitted in its affidavit that the pay of the petitioner at Rs. 350 was protected. Ex. M-3 the another letter produced by the management which would also reveal that pay of Rs. 350 at the time of discharge of the petitioner was protected. In other words it stands proved on the record that the pay scale of the petitioner was protected at the time of appointment of the petitioner in Salal Project, which he was getting in his old pay scale. If that is so, then, to my mind the management is estopped from denying the petitioner the benefits of the pay scale of Rs. 330-560 at the time of rationalization of pay scales of the employees vide settle-

ment, copy of which is Ex. M-8, in which the pay of the petitioner was fixed rationalized on the basis of pay scale of Rs. 320-400 and not on the basis of Rs. 330-560. In my considered opinion, this action of the management is not considering the pay scale of Rs. 330-560 of the petitioner for the purpose of rationalization and refixing his pay is illegal and arbitrary and contrary to the voluntary retrenchment scheme, particularly when, as indicated earlier, the management of Salal Project had protected the pay of the petitioner at the time of his re-employment. Further more the petitioner has categorically reiterated in the replication, that Birasuil Project under NHPC and the Salal Project are now functioning under the control of National Hydro Electric Power Corporation Ltd., Ex. W-4 is the letter of NHPC vide which all the regular and workcharged employees of Salal Hydro Electric Project were transferred to NHPC w.e.f. 1-4-1982 in the same capacity with the same tenure of appointment and on the same status. In other words, Salal Project employees are also working in NHPC w.e.f. 1-4-1983, including the petitioner and the pay scale of Fitter Grade I in NHPC was Rs. 330-560. In this view of the matter, there is no justification for not granting the same pay scale of Rs. 330-560 to the petitioner who was also working as Fitter Grade I in the same pay scale.

There is another aspect of the matter, which can be viewed from another angle. The petitioner Ranjit Singh while appearing as WW-1 has categorically stated on oath that he joined the management of Salal Project on 15-2-1982 as Fitter grade I along with other 35 more persons. He has also stated that all other person barring him, got the same pay scale, which they were drawing at Birasuil Project under NHPC. This portion of his statement has not been specifically challenged by the management and no such question in his cross-examination has been put by the management. In other words, the management had admitted, the statement of WW-1, that all other persons barring the petitioner got the same old scale of Birasuil Project. Not only this, Shri J. S. Dogra, Personnel Officer of the management while appearing as MW-1 has categorically admitted in his cross-examination that 35 persons were employed alongwith the petitioner, who were also voluntarily retrenched from Birasuil Project under NHPC. He has also categorically admitted that all the said persons were given the scales, which they had already drawing from the previous employer. He has also admitted, that petitioner pay scale of Rs. 350 was protected. However his pay scale with the previous employer was Rs. 330-560. Thus, it would be seen that it stands proved on record that 35 voluntary retrenched persons from Birasuil Project, including the petitioner, were re-employed by the management of Salal Project. The other 34 persons, bearing the petitioner, were appointed on the same pay scale by the Salal Project, which they had been getting from their previous employer. If that is so, then, the action of the management in not allowing the petitioner, the previous pay scale, is discriminatory, illegal and no cogent explanation on behalf of the management as to why the petitioner was singled out, in this direction, is forthcoming.



Another contention of the representative of the management that reference is time barred, is again devoid of merits, because no time limit is prescribed under the Act to raise the industrial dispute. The representative of the management has badly failed to show how the reference is time barred.

In the light of aforesaid reasons, thus seen from any angle, the action of the management, cannot legally be sustained. Consequently, it is held that the basic pay of the petitioner has to be refixed and rationalised in pursuance of the settlement Ex. M-1 on the basis of earlier pay scale of Rs. 330-560, and refixing the pay of the petitioner on the basis of pay scale of Rs. 320-400 is illegal and arbitrary. The management is directed to refix and rationalised the basic pay of the petitioner on the basis of pay scale of Rs. 330-560 within three months from the publication of the Award. Keeping in view the peculiar facts and circumstances of the case, the parties are left to bear their own costs. Resultantly, the reference petition is allowed. Appropriate Government be informed.

Chandigarh : 6-4-1995.

M. S. SULLAR Presiding Officer.

नई दिल्ली, 29 मई, 1995

का.आ. 1703.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंगरेनी कुलोरीज कम्पनी लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-5-95 को प्राप्त हुआ था।

[सं. एल-22012/86/88-डी 4-बी.]

राजा लाल, डेस्क अधिकारी

New Delhi, the 29th May, 1995

S.O. 1703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of M/s Singareni Collieries Co. Ltd. and their workmen, which was received by the Central Government on 26-5-95

[No. L-22012/86/88-DIV-B]

RAJA LAL, Desk Officer

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL HYDERABAD

#### PRESENT:

Sri A. Hanumanthu, M.A., LL.B.,  
Industrial Tribunal-I.

1295 GI/95—13.

New Delhi, the 24th March, 1995

Industrial Dispute No. 35-O

#### BETWEEN

Sri Sohan Thapa, Ex-Clerk,  
House No. D-5, Sector-I,  
P.O. Godavarikhani, Dist. Karimnagar (A.P.)  
.. Petitioner

#### AND

The General Manager, Area-I, Ramagundam  
Division, M/s. Singareni Collieries  
Co. Ltd., P.O. Godavarikhani Dist.,  
Karimnagar (A.P.)  
.. Respondent

#### APPEARANCES :

Sri K. Vasudev Reddy, Advocate for the  
Petitioner.  
S/Sri K. Srinivasa Murthy, G. Sudha and  
P.V.K. Kishore Babu, Advocates for the  
Respondent.

#### AWARD

This is a reference made by Government of India, Ministry of Labour, New Delhi, by its Order No. L-22012/86/88-DIV(B), dt. 22-6-1992 under section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication of the industrial dispute appended in the schedule which reads as follows:

"Whether the action of the Management of M/s. S.C.C. Ltd., Area-I, Ramagundam Division in terminating the services w.e.f. 31-10-1985 of Shri Sohan Thapa, Ex-Clerk by way of premature retirement is legal and justified? If not, to what relief the concerned workman is entitled to?"

The said reference is registered as Industrial Dispute No. 35 of 1992.

2. After receipt of the notice from this Tribunal, the Petitioner-workman Sri Sohan Thapa filed his claim statement to the following effect. The petitioner was appointed in the Army in IX Gorkha Rifles on 28-3-1944 as Hawaldar-Clerk and continued to work in the same capacity till 12-3-1953 when he was discharged on medical grounds. At the time of his appointment in the Army the Petitioner was aged 18 years. The Petitioner joined the Respondent-Company on 6-9-1956 and he was posted to work in the Department of Service and Protection Corps. On 17-2-1985 the Petitioner received a notice of retirement from the Colliery Manager, GDK No. 5 Incline stating that he has to retire from service w.e.f. 1-11-1985 and his last working day would be 31-10-1985. The petitioner was shocked to receive such notice and he was asked to retire earlier to his actual date of retirement. As per the Army Discharge Card the Petitioner's age was 18 years as on 28-3-1944. Hence he is entitled to continue in service upto 31-3-1986 when he attains the age of 60 years. As per the Service Book and Identity Card issued to the Petitioner by the Respondent-Company his age was 29 years as on 25-2-1957 and as such the petitioner is entitled to be continued in service upto 1987. Without following either of these notice

of retirement seeking to retire the Petitioner w.e.f. 1-11-1985 was issued. Immediately the petitioner submitted a representation dt. 21-2-1985 to the Deputy C.M.E., GDK 5 Incline explaining all the facts and requested him to consider his Army Discharge Certificate in support of his age and permit him to continue in service upto 31-3-1986. The petitioner did not receive any reply to his representation. Hence the petitioner submitted another representation on 15-10-1985 to the General Manager, RG. II requesting him to continue in service upto 31-3-1986, but the General Manager by his letter dt. 28-10-1985 refused to continue him in service upto 31-3-1986. Thereupon the Petitioner submitted an appeal to the Managing Director of the Respondent-Company on 11-12-1985, but no orders were passed on that appeal. The Petitioner was not examined by the Chief Surgeon and the Medical Officer at any time for determination of his age. As per Item No. 3 Para (A) of Implementation Instruction No. 37 dt. 5-2-1981 the date of birth recorded in Army Discharge Certificate shall be treated as correct date of birth and the same will not be altered under any circumstances. The Implementation Instruction No. 76, dt. 25-4-1988 of National Coal Wage Agreement II also reiterates the same stand. The action of the Respondent Company in retiring the petitioner from service w.e.f. 1-11-1985 instead of 1-4-1986 is illegal, arbitrary and violation of principles of natural justice. Hence the petitioner prays to declare the action of the Respondent-Company in retiring him from service w.e.f. 1-11-1985 instead of 1-4-1986 is illegal, arbitrary and also to direct the Respondent to treat his service as Clerk Grade I upto 31-3-1986 with all the consequential benefits.

3. On behalf of the Respondent-Company a counter has been filed to the following effect. The reference as made is illegal. On the reading of the reference, it reads that Management has terminated the services of the Petitioner Sohan Singh Thapa. There is no termination involved in this case. the petitioner retire after attaining the age of superannuation the actual date of retirement of the petitioner was 15-10-1985 and he was allowed to retire at the end of that month in the usual course. Only on 15-10-1985 the Petitioner produced the Army Discharge Certificate dt. 7-10-1985 to the effect that on 28-3-1944 he joined the Defence Service and his age on that date was put as 18 years. The said Discharge Certificate was not produced at the time of his appointment even though he was given advance notice of retirement. The Petitioner did not choose to produce documentary evidence to that effect. No one can join any Defence Service before completion of 18 years of age and is disqualified to join service before completion of 18 years. As per the records of the Respondent-Company, the petitioner initially joined as Watchman on 6-9-1956 and his age was recorded as 35 years as on 15-10-1960 after examination and assessment by the Chief Surgeon and Medical Officer. It is not open to the petitioner to question the date of birth on the basis of the fact that he was supposed to be 18 years on the day he joined service on his 18th birth date. If really there is mistake regarding the petitioner's date of birth while he was working as Clerk, he

ought to have sought correction earlier or admitted himself before the Medical Board seeking correction of his date of birth. The petitioner approached the Assistant Commissioner of Labour only two years 2 months after his superannuation and as such it is highly belated. The Respondent-Company is not aware of the details of the Petitioner's service prior to his joining the Respondent-Company, the petitioner was dismissed from service on 27-9-1976 and on a mercy petition submitted by him, he was re-appointed afresh w.e.f. 25-9-1977 and posted to work in G.D.K. No. 5 Incline. The Petitioner was examined by the Chief Surgeon and Medical Officer and his age was assessed at 35 years as on 15-10-1960 and the same was entered in the Identity and Service Card and also in Form-B Register which is statutory register maintained under Mines Rules. The Petitioner also signed in the Identity and Service Card as well as the Form B Register accepting his age as entered in the records, as correct. As per Rule No. 4 of the Retirement rules the employees on attaining the age of 60 years have to retire from the service of the Respondent-Company. Accordingly the Petitioner was served with an advance notice informing him that he had to retire from service after working hours on 31-10-1985. Accordingly he retired on the afternoon of 31-10-1985. The Petitioner raised the dispute with regard to his age only at the fag end of his service and that too without producing any documentary evidence with regard to his date of birth. There is no provision to entertain such representation at the fag end of the service of an employee. The Sub-Committee of the Joint Bipartite Committee for Coal Industry formulated guidelines to determine the age of a new entrant and resolving the age dispute in respect of the existing employees. But these provisions are not applicable to the employees who are already in service. Hence these guidelines are not applicable to the Petitioner. Hence the guidelines referred to by the Petitioner are not applicable to him. There is no variation in the records and also glaring variation brought to the notice of the Management and therefore the age of the birth as entered in the service record only was taken as authentic and accordingly the petitioner was asked to retire w.e.f. 31-10-1985. Item No. 3 of para 8 of Implementation Instructions No. 37 dt. 5-2-1981 and the Implementation Instruction No. 76 dt. 25-4-1988 are not applicable to the Petitioner from service w.e.f. 31-10-1985 and that the Petitioner is not entitled for any relief.

4. On behalf of the Petitioner, W.W1 is examined and Exs. W1 to W11 are marked. On behalf of the Respondent-Management M.W1 is examined and Exs. M1 to M4 are marked. The Petitioner-Workman got himself examined as W.W1 and he deposed to the averments in his claim statement. The Personnel Officer working in the Respondent Company at Godavari Khani is examined as M.W1 and he deposed to the averments in the counter. The details of the documents Exs. W1 to W11 and Exs. M1 to M4 marked on behalf of the Petitioner and the Respondent respectively are appended to this award.

5. The point for consideration is whether the Petitioner-workman Sohan Singh Thapa was entitled to continue in service of the Respondent-Company till 31-3-1986 as pleaded by him ?

6. POINT :—The admitted facts as revealed from the evidence on record are as follows : The Petitioner-workman Sohan Singh Thapa a native of Dehradun, was appointed in the Army on 28-3-1944 in IXth Goorkha Rifles as Clerk and he was discharged from the Army on 12-3-1953 on medical grounds. He was appointed in the Respondent-Company as Watchman on 6-5-1956 in the department of Services and Protection Corps at Kothagudem. Later on he was transferred from Kothagudem to Godavari Khani in the year 1965 and he was working in GDK No.5 Incline. While in service, the Petitioner was dismissed w.e.f. 27-9-1976 and he was reappointed afresh w.e.f. 25-9-1977 and he continued to work in that till he retired on 31-10-1985. As per the Rules of the Respondent-Company the employees have to retire on attaining the age of 60 years. The petitioner received the notice dt. 17-2-1985 issued by the Respondent stating that he has to retire from service from 1-11-1985 and that his last working day will be 31-10-1985. The Petitioner submitted a representation dated 21-2-1985 (the original of Ex. W-2) that he is entitled to continue in service upto 31-3-1986, as per his age as mentioned in the Army Discharge Certificate. As no reply was received to the said representation, the Petitioner submitted another representation on 15-10-1985 (the original of Ex. W3 (Ex. M4) to the Management of the Respondent Company reiterating his request to continue him in service till 31-3-1986. The Respondent-Company by its letter dt. 28-10-1985 (Ex. W4) informed the Petitioner that his request was rejected and he was directed to retire from service w.e.f. 1-11-1985. Accordingly the Petitioner retired from service on the afternoon of 31-10-1985. On 12-5-1988 the Petitioner submitted a petition (original of Ex. W5) to the Assistant Commissioner of Labour (Central) Hyderabad raising the dispute and the Assistant Commissioner of Labour submitted his conciliation failure report (original of Ex. W6) to the Government and thereafter the Government of India, Ministry of Labour, made this reference for adjudication.

7. The dispute involved in this reference concerns the date of birth of the petitioner workman and consequently the date of his retirement on attaining the superannuation age of 60 years. The Petitioner's case is that he joined the Army on 28-3-1944 and at the time of his recruitment in the Army his age was assessed as 18 years and he was discharged from Army on 20-3-1953 on medical grounds that he was appointed as Watchman on 6-9-1956 in the Respondent-Company on the basis of the Army Discharge Certificate produced by him and therefore he has to retire on attaining the age of superannuation of 60 years on 31-3-1986 but he was discharged prematurely on 31-10-1985. Therefore the Petitioner is seeking extension of his service for a period of five months. The petitioner is relying on Ex. W1, a substitute issued for the last discharge certificate, wherein it is mentioned that he was aged 18 years at the time of his enrolment in Goorkha Rifles on 28-3-1944.

8. The learned counsel for the Respondent on the other hand contends the petitioner did not produce the Discharge Certificate before the authority when he was recruited as Watchman in the Respondent-Company on 6-9-1956, that his age was assessed by the Chief Medical Officer as 35 years as on 15-10-1960

and it is recorded in the Service Book and Form B Statutory register, maintained by the Respondent Company and as such the Petitioner attains the age of superannuation of 60 years on 31-10-1985. The learned counsel for the Respondent is relying on Exs. M1 to M3 Form B. Register maintained by the Respondent Company wherein the age of the petitioner is shown as 35 years as on 15-10-1960 and also Ex. M2 the Identity and Service Card issued to the Petitioner wherein the age of the petitioner is shown as 35 years as on 15-10-1960.

9. Admittedly the educational qualification of the petitioner is only 9th Class. We have not produced the date of birth certificate issued by the Registrar of Births and Deaths. He also not produced the School Leaving Certificate relating to his date of birth. It is also not disputed that the petitioner workman worked in IXth Goorkha Rifles and later on he was discharged on medical grounds. The Petitioner is relying on Ex. W-1 to show that he was aged 18 years on the date of his recruitment in the Army i.e. on 28-3-1944. As seen from Ex. W1 it has been issued by the Record Officer incharge of records, Varanasi. It is also mentioned in this document the entries in this document have to be used as substitution for the last Discharge Certificate. Therefore, it is not the original Discharge Certificate of the Petitioner but it is only a substitute to be used for a lost Army Discharge Certificate. The date of enrolment of the petitioner Sohan Singh Thapa as Howaldar Clerk is mentioned as 28-3-1944 in the IXth Goorkha-Rifles and that his age was recorded at the time of enrolment as 18 years and that he was discharged on 12-3-1953 on invalidation. Admittedly, this document was obtained by the Petitioner only on 7-10-1985 i.e. subsequent to the issue of notice of retirement to the Petitioner by the Management. It is contended on behalf of the Management that this document is a got up document for the purpose of this reference and that it cannot be relied on. There is no reason to believe that it is a got up document for the purpose of this case. It bears the office seal and signature of the Officer who issued this certificate. Moreover, it is clearly mentioned that this document has to be used as substitution of last discharge certificate. I do not find any reason to reject this document as a got up document.

10. Admittedly the petitioner was appointed as Watchman in the Security Wing of the Respondent-Company on 6-9-1956 at Kothagudem. It is also admitted that in 1965 he was transferred to Godavari Khani from Kothagudem. It is common knowledge that at the time of appointment the age particulars of the employee will be verified. M. W-1 also admits in his cross examination that "it is not possible to appoint any employee without verifying his age at the time of his appointment". It is also in the evidence of M.W1 that the service particulars and also age of the employees will be noted in the Form B register and the service register of the employee as maintained by the Respondent-Company. Therefore at the time of his recruitment as Watchman on 6-9-1956 at Kothagudem, the Respondent company might have verified the age particulars of the Petitioner and also made entries in the Form B Register and the Service Register as maintained by the Respondent-

Company for Kothagudem Region. On behalf of the Petitioner an application I.A. No. 18/94 was filed seeking direction by this Tribunal to the Respondent-Company to produce identity and service card and Form B register pertaining to Kothagudem relating to his initial appointment at Kothagudem, that petition was allowed and this Tribunal directed the Respondent-Company to produce the said records. But the Management instead of producing those records produced Ex. M1 to M3. Ex. M1 is the Form B Register relating to Mines Vocation Training Centre, RG, Signareni Collieries Company Limited. Ex. M3 is Form B Register relating to GDK No. 5 Incline Godavari Khani. Ex. M2 is the Identity and Service Card issued to the Petitioner on 17-5-1972. M.W1 admits in his cross examination that Ex. M2 was prepared in the year 1972 and the date of the appointment of the petitioners shown in Ex. M-2 as 6-6-1965. He also admits in his cross examination that Exs. M1 to M3 pertain to Ramagudam Area of the Company. M. W-1 further admits in his cross examination that the Management has not produced the Form B Register relating to the petitioner at Kothagudem as it was not traceable. In Ex. M1 the name of the petitioner is at S. No. 2 in Column No. 4 and as regard his age, it is mentioned as "35 years as on 15-10-1960 vide CS No. 3150/15-10-1960". In Column No. 7 the date of commencement of employment is shown as 6-6-1965 in Column No. 8 and the date of termination or leaving employment is shown as 27-9-1976. In Column No. 9 the signature of the Petitioner is also there and in the remarks column No. 10 it is mentioned as "terminated on 27-9-1976." In Ex. M-3 the name of the petitioner is found in S.No. 64. In column No. 5 relating to the age, it is noted as "35 years as on 15-10-1960" as per M.V.T.C. record". In Column No. 10 relating to the date of commencement of employment, it is noted as 25-3-1977. In column No. 12 relating to the date of termination or leaving of employment it is noted as retired. In Column No. 13 the signature of the petitioner is noted. In Ex. M2 the Identity and Service Card of the Petitioner, the age of the Petitioner is noted as 35 years as on 15-10-1960 as per M.V.T.C. records dt. 4-9-1984 and his date of appointment is noted as 6-6-1965 and as earlier stated this Identity and Service Card Ex. M2 was prepared on 17-5-1972 as noted at the end of page No. 2. In the same Identity Card at page No. 5 it is mentioned that the Petitioner was "dismissed from service on 27-9-1976 and reappointed on 25-9-1977 vide General Manager Letter DPO/RG/5677/3207, dt. 23-9-1977". Relying on the entries relating to the age in Ex. M1, M2 and M3, the learned counsel for the Respondent submits that the petitioner's age was assessed by the Medical Officer as 35 years as on 15-10-1960 and therefore superannuation at 60 years of age falls on 15-10-1985 and the Petitioner was retired from service at the end of October, 1985. Admittedly Exs. M1, M2 and M3 relate to service particulars of the Petitioner at Godavari Khani and not of Kothagudem. It is not in dispute that the petitioner was appointed originally at Kothagudem on 6-9-1956, it was only in 1965 he was transferred to Godavari Khani, Ramagundam Area and Exs. M1 to M3 relate to his service at Godavari Khani. As earlier stated as per the Order in I.A. No. 18/94 the Respondent-Company was directed to produce Form B Registers maintained at Kotha-

gudem office relating to the petitioner. But the said registers are not produced before this Tribunal inspite of the said direction. Under Section 114 of the Evidence Act, an adverse inference has to be drawn against the Respondent Company for non-production of the records as directed by this Tribunal.

11. It is no doubt true that in the entries in Ex. M1 to M3 the age of the petitioner is noted as 35 years as on 15-10-1960. M.W1 claims that the age of the petitioner was assessed on 15-10-1965 as 35 years. But the records relating to the medical examination of the petitioner are not produced before this Tribunal. Moreover the entries relating to the age in Exs. M1 to M3 are in different inks. It is not known when those entries are made and by who. Obviously the entries relating to the age of the petitioner were subsequently inserted in Exs. M1 to M3. There is no proper explanation by the Management on this aspect. M. W1 admits in his cross examination that he joined the Respondent-Company only in the year 1962 and as such he will not have any personal knowledge with regard to the recruitment of the petitioner in 1956 at Kothagudem or his subsequent transfer to Godavari Khani in 1965. Further M.W1 could not have personal knowledge with regard to the medical examination of the petitioner on 15-10-1960 when the age of the petitioner was said to have been assessed as 35 years by the Chief Officer of the Respondent because M.W1 was not in service by then. As early stated the Respondent Company also failed to produce the relevant medical records relating to the examination of the Petitioner. On the other hand, the petitioner examined as W-W1 state on oath that he was never subjected to Medical examination by the Respondent-Company for determination of his age. If really the petitioner was subjected to medical examination as alleged by the Respondent, nothing prevented the Respondent-Management to produce the said medical records or to examine the concerned authorities to disprove the contention of the petitioner that he was not subjected to medical examination. The entries in Exs. M1 to M3 relating to the age of the petitioner cannot be relied and acted upon in the absence of the medical records relating to the examination of the petitioner for fixing up his age. The evidence of M.W1 in his cross examination is relevant in this context and it reads as follows ; "I know the petitioner herein since 1963. The petitioner was initially appointed in 1956 at Kothagudem".

Question : When the Petitioner was appointed in the year 1956 at Kothagudem, how can his age was entered as 35 years as on 15-10-1960 ?

Ans. : The Petitioner did not produce any proof of his date of birth to the Company authorities till that date, so he was referred to the Chief Surgeon and Medical Officer at Kothagudem for fixation of his age and the Doctor assessed the age of the petitioner as 35 years as on 15-10-1960. The Petitioner was examined by the Chief Medical Officer at Kothagudem. I was not in service by then. I am deposing with reference to the entries in service records of the petitioner. I have not produced

those documents relating to the examination of the petitioner as they are not traceable. The service particulars of an employee will be entered in Form B Register at the time of his employment. Form B Register is a statutory register. We have not produced the Form B register relating to the Petitioner at Kothagudem as it was not traceable. It is not possible to appoint any employee without verifying his age at the time of his appointment."

It is clear from this evidence of M. W1 that he has no personal knowledge with regard to the medical examination of the petitioner for fixing of age as on 15-10-1960 and the relevant records also are not produced though summoned by this Tribunal.

12. Ex. W9 is the Identity Card issued to the petitioner by the Respondent-Company when he joined service on 6-9-1956. The age of the petitioner is noted as 29 years in this document, and this document was prepared on 20-2-1957. If the entry relating to the age of the petitioner as noted in this document is taken as 29 years on the date of appointment i.e. 1956, the petitioner will be retiring on attaining the age of superannuation at 60 years by the end of September, 1987. Admittedly the petitioner is not seeking retirement based on this document. Ex. W10 is the xerox copy of Ex-Servicemen Identity Card said to have been issued by the Zilla sainik Welfare Officer, Karimnagar and the date of birth of the petitioner is noted as 5-1-1928 and the date of retirement on attaining the age of superannuation of 60 years based on this document will come by the end of January 1988. Admittedly he is also not seeking retirement based on this document. On the other hand, he is relying the entry in his discharge certificate Ex. W1 that his age was 18 years on 28-3-1944 when he joined Army and according to this document, the petitioner has to retire on attaining the age of superannuation of 60 years by the end of March 1986.

13. The Petitioner workman is relying on Exs. W-7 and W-8 that in case of ex-servicemen who are not matriculates, the date of birth recorded in the Army Discharge Certificate shall be treated as correct date of birth and the same will not be altered under any circumstances. Ex. W-7 is the copy of the Implementation Instruction No. 37, dated 5-2-1981 issued as per the National Coal Wage Agreement II. Ex. W-8 is the copy of Implementation Instruction No. 76 dated 25-4-1988 issued as per the National Coal Wage Agreement III. The learned counsel for the Respondent submits that the instructions issued under Exs. W-7 and W-8 cannot be relied upon by the Petitioner as the petitioner was already in service by the date of Ex. W-7 and the Petitioner had retired on attaining the superannuation by the date of Ex. W-8. It is true that Ex. W-8 is dated 25-4-1988 and by then the Petitioner had already retired from service. Hence Ex. W-8 is not applicable for the Petitioner. As regards Ex. W-7 the Petitioner was in service by the date of Ex. W-7 Clause No. (A) of Ex. W-7 relates to the determination of the age at the time of his appointment. Clause (B) of Ex. W-7 relates to Review/determination of date of birth in respect of existing employees. Hence Clause (B) of Ex. W-7 is applicable

to the Petitioner as he was in service by then. Under Clause (B) 1 (a) of Ex. W-7 wherever there is no variation in records, with respect to the age of an employee such cases will not be re-opened unless there is a very glaring and apparent wrong entry brought to the notice of the management. The management, after being satisfied on the merits of the case, will take appropriate action for correction through age determination Committee/Medical Board. In the instant case, the Management issued advance notice to the Petitioner stating that he had to retire on attaining the age of superannuation on 31-10-1985. Then immediately the Petitioner submitted representation under the original Ex. W-2. As he did not receive any reply to it, he submitted another representations under Ex. W-3 and W-4, claiming that as per the entry in the discharge certificate issued by the Army authorities he will attain the age of superannuation only by the end of March 1986. This is contrary to the entries found in Exs. M-1, M-2 and M-3 and also Ex. W-9. In view of the glaring discrepancy regarding the age of the petitioner in this case, the Management ought to have referred to the Medical Board or Age Determination Committee with regard to the correct age of the Petitioner as per Clause (B) 1 (a) of Implementation Instruction No. 37 (Ex. W-7). But for the reasons best known to the Management that has not been done in this case. On the other hand, the petitioner was asked to retire on the after-noon of 31-10-1985 as per Ex. W-4.

14. The learned counsel for the Respondent—Management submits that the Petitioner has come up with the application for correction of his date of birth only at the end of his career and as such it is highly belated and lacks any bonafides and the same is liable to be rejected. The learned counsel for the Petitioner submits that the petitioner submitted the applications Exs. W-2 and W-3 informing the Management about his correct age only when he was informed that he had to retire on the after-noon of 31-10-1985 and that all the while the petitioner was under the impression that his age was correctly noted in the records of the Management when he originally joined the service of the Management in 1956. There is much force in the contention of the learned counsel for the Petitioner. The petitioner was under the impression that his age was correctly noted as mentioned in his Army Discharge Certificate which he produced before the Respondent-Management when he joined the service in 1956. It is common knowledge and also in the evidence of M. W-1 that without verifying the age, no person can be employed. So in all probability the age of the Petitioner could have been verified from the Army Discharge Certificate produced by the Petitioner. As seen from Ex. W-1, the duplicate Army Discharge Certificate, the age of the petitioner was assessed as 18 years on 28-3-1944 when he was recruited in the Army. Based on it, he had to retire on attaining the age of superannuation of 60 years only by the end of March, 1986. It was a surprise to him when he received the notice that he had to retire at the end of October, 1985. Hence the Petitioner submitted Exs. W-2 and W-3 informing the Management about his correct age and sought for retirement only by the end of March, 1986. At that stage, the Management ought to have

verified the entire relating to the age of the petitioner as mentioned in the records when the Petitioner had actually joined service at Kothagudem in 1956. As earlier stated, the Management did not choose to produce the relevant records of Kothagudem of 1956 though summoned by this Tribunal for verification regarding the entries of the age of the petitioner as recorded by them. Hence I am unable to agree with the contention of the learned counsel for the Respondent Management that the claim of the petitioner is highly balated.

15. In the light of my above discussion, I hold on the point that the Petitioner-workman Sohan Singh Thapa was entitled to continue in service of the Respondent-Management till 31-3-1986 as pleaded by him. The point is thus decided in favour of the Petitioner-workman and against the Respondent-Management.

16. In the result, Award is passed stating that the Petitioner-workman was entitled to continue in service of the Respondent-Management till 31-3-1986. Admittedly, the Petitioner was retired from service on the after-noon of 31-10-1985. The Petitioner is entitled for all consequential benefits deeming that the continued to be in service till 31-3-1986. The Respondent-Management is directed to pay the said benefits to the Petitioner within three months from the date of publication of this Award failing which the benefits will carry interest at 12 per cent P. A. The parties are directed to bear their own costs.

Award passed accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal this the 24th day of March, 1995.

A. HANUMANTHU, Industrial Tribunal-I.

#### Appendix of Evidence.

##### Witnesses Examined for Petitioner :

W. W-1 Sohan Singh Thapa.

##### Witnesses Examined for Respondent :

M. W-1 S. T. Ravindran.

##### Dotuments marked for the Petitioner :

Ex. W-1—Discharge Certificate issued to W. W-1.

Ex. W-2 /21-2-85—Representation given to the Dy. C.M.E., GDK No. 5 Incline.

Ex. W-3/15-10-85—Representation given to the Dy. C.M.E., GDK No. 5 Incline.

Ex. W-4/28-10-85—Reply given by the Management to the Petitioner Workman.

Ex. W-5/12-5-85—Complaint given to A.L.C. (C) Hyderabad by the Petitioner.

Ex. W-6/14-6-88—Conciliation failure report.

Ex. W-7/5-2-81—Implementation Instruction No. 37.

Ex. W-8/25-4-88—Implementation Instruction No. 76.

Ex. W-9/25-4-88—Identity Card issued by the Respondent.

Ex. W-10/25-4-88—Xerox copy of Identity Card.

Ex. W-11/25-4-88—Certificate issued by the Zilla Sainik Welfare Officer, Karimnagar.

##### Dotuments marked for the Respondent-Management :

Ex. M-1 — B. Register pertaining to GDK No. 5 Incline. Sl. No. 64 pertains to the workman.

Ex. M-2 — Service Card and Identity Book.

Ex. M-3 — Form B. Register of M. V. T. C. RG-I Area.

Ex. M-4/15-10-85—Letter regarding correct recording of the age extension of service.

नई दिल्ली 2 जून, 95

का.आ. 1704.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 16-6-1995 को उम तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 धारा 44 और 45 के विषय जो पहले ही प्रवृत्त की जा चुकी है और अध्याय-5 और 6) धारा 76 की उप धारा (i) और धारा 77, 78, 79 और 81 के विषय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध पंजाब राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

क्र. म.	राजस्व नाम	हबनस्त नं.	जिला
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1.	सदराबाद	115	संगरूर
2.	रतौला	92	संगरूर
3.	बरकतपुरा	91	संगरूर
4.	मदहेश्वी	90	संगरूर

[संख्या एम-38013/32/95/एमएम-1)]

जे पी शुक्ला, अवसर सचिव

New Delhi, the 2nd June 1995

S.O. 1704.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 16th June, 1995 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI (except

sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Punjab namely :—

Sl. No.	Revenue Village	Had Bast No.	District
1.	Sadarabad	115	Sangrur
2.	Ratolan	92	Sangrur
3.	Barkatpura	91	Sangrur
4.	Madhevi	90	Sangrur

[No. S-38013/32/95-SS.I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 2 जून, 1995

का.आ. 1705.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 16-6-1995 को उस तारीख के रूप में नियुक्त करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य निम्न लिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

“जिला विजयानगरम के चीपूरुपाले मंडल में राजस्व ग्राम चीपूरुपाले की सीमाओं के अन्तर्गत आने वाले क्षेत्र”।

[संख्या एम-38013/33/95-एम एम-1)]

जे. पी. शुक्ला, अवसर सचिव

New Delhi, the 2nd June, 1995

S.O. 1705.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 16th June, 1995 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI except sub-sec. (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

“The areas falling within the limits of revenue villages of Cheepurupalle in Cheepurupalle mandal of Vizianagaram District.”

[F. No. S-38013/33/95-SS.I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 2 जून, 1995

का.आ. 1706.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 16-6-1995 को उस तारीख के रूप में नियुक्त करती है, जिसको उक्त अधिनियम के अध्याय 4 धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है

(और अध्याय 5 और 6) धारा 76 की उपधारा (6) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्न लिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

“जिला कुरुनूल के कुरुनूल मंडल में राजस्व ग्राम मामी-डालापडु, पंचलिंगला, मुनागलापडु, निडजुर, तान्द्रापडु, नूतला पाले, वेंकैयापाले, और पणुपाला तथा जिला महबूबनगर के मनवापडु मंडल में राजस्व ग्राम कलुर की सीमाओं के अन्तर्गत आने वाले क्षेत्र”।

[संख्या एम 38013/34/95-एम एम-1]

जे. पी. शुक्ला, अवसर सचिव

New Delhi, the 2nd June, 1995

S.O. 1706.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 16th June, 1995 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-sec. (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

“The areas falling within the limits of revenue villages of Māmidalapadu, Panchalingla, Munagalapadu, Nidjur, Tandrapadu, Nootanapalle, Venkayapalle and Pasupala in Kurnool revenue mandal of Kurnool Distt. and Pullur in Manavapadu mandal of Mahaboob Nagar District.”

[F. No. S-38013/34/95-SS.I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 2 जून, 1995

का.आ. 1707.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार एतद्वारा 16-6-1995 को उस तारीख के रूप में नियुक्त करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा-44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय-5 और 6 (धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्न लिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

“जिला खम्माम के कोथागुडम मंडल में राजस्व ग्राम मिरिपुरम, येनुपुर, रामापुरम, येनुगाट्टापा और चेन्वपल्ली की सीमाओं के अन्तर्गत आने वाले क्षेत्र”।

[संख्या : एस-38013/36/95-एमएम-1]

जे. पी. शुक्ला, अवसर सचिव

New Delhi, the 2nd June, 1995

S.O. 1707.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 16th June, 1995 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

"The areas falling within the revenue villages of Siripuram, Yenupuru, Ramapuram, Penugadapa and Chenchupally in Kothagudem mandal of Khammam Dist."

[F. No. S-38013/36/95-SS.I]

J. P. SHUKLA, Under Secy

नई दिल्ली, 2 जून, 1995

का.आ. 1708.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा 3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 16-6-1995 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (7) और धारा 77, 78 और 79 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

"जिला वारंगल के घीतुगोन्डा मंडल में राजस्व ग्राम धरमराम के अन्तर्गत आने वाले क्षेत्र"।

[संख्या एस-38013/35/95-एस एस-1)]

जे.पी.शुक्ला, अवर सचिव

New Delhi, the 2nd June, 1995

S.O. 1708.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 16th June, 1995 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of

the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

"The areas falling within the revenue Village of Dharmaram in Geesugonda mandal of Warangal District."

[F. No. S-38013/35/95-SS.I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 6 जून, 1995

का.आ. 1709.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 16-6-1995 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6) धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध हरियाणा राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

"जिला अम्बाला की तहसील कालका में राजस्व ग्राम भेरो की गैर हदवस्त संख्या 149 के अन्तर्गत आने वाले क्षेत्र"

[संख्या एस-38013/31/95-एस एस I]

जे. पी.शुक्ला, अवर सचिव

New Delhi, the 6th June, 1995

S.O. 1709.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 16th June, 1995 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Haryana namely :—

"The areas falling within the limits of revenue village of Bhairon Ki Sair Tehsil Kalka, Had Bast No. 149, District Ambala."

[No. S-38013/31/95-SS.I]

J. P. SHUKLA, Under Secy.